

E	Eastern Arizona Counties Organization
C	<i>Economy - Ecology</i>
O	<i>Land - People - Future</i>

Arizona Counties Natural Resources Management Study

A Gap Analysis and Practitioners' Guide

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Appendix I. Federal Land Management Statutes and Regulations - U.S. Forest Service

National Forest Management Act (NFMA) laws (16 U.S.C. Part 1600 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=16+U.S.C.+1600&granuleId=U.S.C.ODE-2012-title16-chap36-subchapl-sec1600&packageId=U.S.C.ODE-2012-title16>

Multiple Use Sustained Yield Act (MUSYA) laws (16 U.S.C. Part 528 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/granule/U.S.C.ODE-2011-title16/U.S.C.ODE-2011-title16-chap2-subchapl-sec528>

Healthy Forests Restoration Act (HFRA) laws (16 U.S.C. Part 6501 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/granule/U.S.C.ODE-2010-title16/U.S.C.ODE-2010-title16-chap84-sec6501>

NFMA rules and regulations (36 C.F.R. Part 219 et seq.) are available at U.S. Government Printing Office at: <http://www.gpo.gov/fdsys/search/pagedetails.action?st=36+C.F.R.+219&granuleId=C.F.R.-2013-title36-vol2-sec219-2&packageId=C.F.R.-2013-title36-vol2>

16 U.S.C. Part 1600 et seq. - National Forest Management Act (NFMA)

“To serve the national interest, the renewable resource program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nation's public and private forests and rangelands, through analysis of environmental and economic impacts, coordination of multiple use and sustained yield opportunities, and public participation in the development of the program” (16 U.S.C. Part 1600).

16 U.S.C. Part 1604. National Forest System land and resource management plans (NFMA)

(a) Development, maintenance, and revision by Secretary of Agriculture as part of program; coordination.

As a part of the Program provided for by section 1602 of this title, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(b) Criteria

In the development and maintenance of land management plans for use on units of the National Forest System, the Secretary shall use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences...

...

(g) Promulgation of regulations for development and revision of plans; environmental considerations; resource management guidelines; guidelines for land management plans ... the Secretary shall in accordance with the procedures set forth in section 553 of title 5, promulgate regulations, under the principles of the Multiple-Use Sustained-Yield Act of 1960 [16 U.S.C. 528–531] that set out the process for the development and revision of the land management plans, and the guidelines and standards prescribed by this subsection.

16 U.S.C. Part 528 et seq. - Multiple Use Sustained Yield Act (MUSYA)

“It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes” (16 U.S.C. Part 528).

16 U.S.C. Part 529 - Authorization of development and administration consideration to relative values of resources; areas of wilderness (MUSYA)

The Secretary of Agriculture is authorized and directed to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom. In the administration of the national forests due consideration shall be given to the relative values of the various resources in particular areas...

16 U.S.C. Part 530 - Cooperation for purposes of development and administration with State and local governmental agencies and others (MUSYA)

In the effectuation of sections 528 to 531 of this title the Secretary of Agriculture is authorized to cooperate with interested State and local governmental agencies and others in the development and management of the national forests.

16 U.S.C. Part 6501 et seq. - Healthy Forests Restoration Act (HFRA)

The purposes of the act are “to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects; to authorize grant programs to improve the commercial value of forest biomass...; to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape; to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health; to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and to protect, restore, and enhance forest ecosystem components” (16 U.S.C. Part 6501).

16 U.S.C. Part 6501 – Purposes (HFRA)

The purposes of this chapter are—

- (1) to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects;

36 C.F.R. Part 219 et seq. - National Forest System Land Management Planning (USFS-2012)

36 C.F.R. § 219.4 Requirements for public participation (USFS-2012)

- (a) Providing opportunities for participation.

The responsible official shall provide opportunities to the public for participating in the assessment process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying National Environmental Policy Act (NEPA) documents; and reviewing the results of monitoring information...

- (1) Outreach. The responsible official shall engage the public—including Tribes and Alaska Native Corporations, other Federal agencies, State and local governments, individuals, and public and private organizations or entities—early and throughout the planning process as required by this part, using collaborative processes where feasible and appropriate. In providing opportunities for engagement, the responsible official shall encourage participation by:

...

- (iv) Federal agencies, States, counties, and local governments, including State fish and wildlife agencies, State foresters and other relevant State agencies. Where appropriate, the responsible official shall encourage States, counties, and other local governments to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan. The responsible official may participate in planning efforts of States, counties, local governments, and other Federal agencies, where practicable and appropriate.

...

- (b) Coordination with other public planning efforts.

- (1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.

- (2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes (43 U.S.C. 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the

environmental impact statement (EIS) for the plan (40 C.F.R. §§ 1502.16(c), 1506.2). The review shall include consideration of:

- (i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;
- (ii) The compatibility and interrelated impacts of these plans and policies;
- (iii) Opportunities for the plan to address the impacts identified or to contribute to joint objectives; and
- (iv) Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives.

...

36 C.F.R. § 219.6 – Assessment (USFS-2012)

The responsible official has the discretion to determine the scope, scale, and timing of an assessment described in § 219.5(a)(1), subject to the requirements of this section.

(a) Process for plan development or revision assessments. An assessment must be completed for the development of a new plan or for a plan revision. The responsible official shall:

(1) Identify and consider relevant existing information in governmental or non-governmental assessments, plans, monitoring reports, studies, and other sources of relevant information. Such sources of information may include State forest assessments and strategies, the Resources Planning Act assessment, eco-regional assessments, non-governmental reports, State comprehensive outdoor recreation plans, community wildfire protection plans, public transportation plans, State wildlife data and action plans, and relevant Agency or interagency reports, resource plans or assessments. Relevant private information, including relevant land management plans and local knowledge, will be considered if publicly available or voluntarily provided.

(2) Coordinate with or provide opportunities for the regional forester, agency staff from State and Private Forestry and Research and Development, federally recognized Indian Tribes and Alaska Native Corporations, other governmental and non-governmental parties, and the public to provide existing information for the assessment.

...

(b) Content of the assessment for plan development or revision. In the assessment for plan development or revision, the responsible official shall identify and evaluate existing information relevant to the plan area for the following:

...

- (6) Social, cultural, and economic conditions;
- (7) Benefits people obtain from the NFS planning area (ecosystem services);
- (8) Multiple uses and their contributions to local, regional, and national economies;
- (9) Recreation settings, opportunities and access, and scenic character;
- (10) Renewable and nonrenewable energy and mineral resources;

(11) Infrastructure, such as recreational facilities and transportation and utility corridors;

...

(14) Land status and ownership, use, and access patterns; and

...

36 C.F.R. § 219. 8 - Sustainability (USFS-2012)

...

(b) Social and economic sustainability.

The plan must include plan components, including standards or guidelines, to guide the plan area's contribution to social and economic sustainability, taking into account:

(1) Social, cultural, and economic conditions relevant to the area influenced by the plan;

(2) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character;

(3) Multiple uses that contribute to local, regional, and national economies in a sustainable manner;

(4) Ecosystem services;

(5) Cultural and historic resources and uses; and

(6) Opportunities to connect people with nature.

36 C.F.R. § 219.10 - Multiple use (USFS-2012)

While meeting the requirements of §§ 219.8 and 219.9, the plan must provide for ecosystem services and multiple uses, including outdoor recreation, range, timber, watershed, wildlife, and fish, within Forest Service authority and the inherent capability of the plan area as follows:

(a) Integrated resource management for multiple use.

The plan must include plan components, including standards or guidelines, for integrated resource management to provide for ecosystem services and multiple uses in the plan area...

(1) ... ecosystem services, ... forage, ... grazing and rangelands, ... recreation settings and opportunities, ... timber, ... and other relevant resources and uses.

(2) Renewable and nonrenewable energy and mineral resources.

(3) Appropriate placement and sustainable management of infrastructure, such as recreational facilities and transportation and utility corridors.

- (4) Opportunities to coordinate with neighboring landowners to link open spaces and take into account joint management objectives where feasible and appropriate.
 - (5) Habitat conditions ... for hunting, fishing, trapping, gathering, observing, subsistence, and other activities (in collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments).
 - (6) Land status and ownership, use, and access patterns relevant to the plan area.
 - (7) Reasonably foreseeable risks to ecological, social, and economic sustainability.
- (b) Requirements for plan components for a new plan or plan revision.
- (1) The plan must include plan components, including standards or guidelines, to provide for:
 - (i) Sustainable recreation; including recreation settings, opportunities, and access; and scenic character. Recreation opportunities may include non-motorized, motorized, developed, and dispersed recreation on land, water, and in the air.
 - ...
 - (2) Other plan components for integrated resource management to provide for multiple use as necessary.

36 C.F.R. § 219.11 - Timber requirements based on the NFMA (USFS-2012)

While meeting the requirements of §§ 219.8 through 219.10, the plan must include plan components, including standards or guidelines, and other plan content regarding timber management within Forest Service authority and the inherent capability of the plan area, as follows:

- ...
- (b) Timber harvest for purposes of timber production. A plan that identifies lands as suitable for timber production must include plan components, including standards or guidelines, to guide timber harvest for timber production or for other multiple use purposes on such lands.
- (c) Timber harvest for purposes other than timber production. Except as provided in paragraph (d) of this section, the plan may include plan components to allow for timber harvest for purposes other than timber production throughout the plan area, or portions of the plan area, as a tool to assist in achieving or maintaining one or more applicable desired conditions or objectives of the plan in order to protect other multiple-use values, and for salvage, sanitation, or public health or safety. Examples of using timber harvest to protect other multiple use values may include improving wildlife or fish habitat, thinning to reduce fire risk, or restoring meadow or savanna ecosystems where trees have invaded.

36 C.F.R. § 219.12 – Monitoring (USFS-2012)

(a) Plan monitoring program.

(1) The responsible official shall develop a monitoring program for the plan area and include it in the plan. Monitoring information should enable the responsible official to determine if a change in plan components or other plan content that guide management of resources on the plan area may be needed. The development of the plan monitoring program must be coordinated with the regional forester and Forest Service State and Private Forestry and Research and Development. Responsible officials for two or more administrative units may jointly develop their plan monitoring programs.

...

(4) Subject to the requirements of paragraph (a)(5) of this section, the responsible official has the discretion to set the scope and scale of the plan monitoring program, after considering:

...

(vii) Progress toward meeting the desired conditions and objectives in the plan, including for providing multiple use opportunities.

...

(b) Broader-scale monitoring strategies.

...

(3) To the extent practicable, appropriate, and relevant to the monitoring questions in the plan monitoring program, plan monitoring programs and broader-scale strategies must be designed to take into account:

...

(ii) Opportunities to design and carry out multi-party monitoring with other Forest Service units, Federal, State or local government agencies, scientists, partners, and members of the public; and

...

36 C.F.R. 219.53 Who may file an objection (USFS-2012)

(a) Individuals and entities who have submitted substantive formal comments related to a plan, plan amendment, or plan revision during the opportunities for public comment as provided in subpart A during the planning process for that decision may file an objection. Objections must be based on previously submitted substantive formal comments attributed to the objector unless the objection concerns an issue that arose after the opportunities for formal comment. The burden is on the objector to demonstrate compliance with requirements for objection. Objections that do not meet the requirements of this paragraph may not be accepted; however, objections not accepted must be documented in the planning record.

(b) Formal comments received from an authorized representative(s) of an entity are considered those of the entity only. Individual members of that entity do not meet objection eligibility requirements solely based on membership in an entity. A member or an individual must submit substantive formal comments independently to be eligible to file an objection in an individual capacity.

...

36 C.F.R. § 219.57 Resolution of objections (USFS-2012)

(a) Meetings. Prior to the issuance of the reviewing officer's written response, either the reviewing officer or the objector may request to meet to discuss issues raised in the objection and potential resolution. The reviewing officer must allow other interested persons to participate in such meetings. An interested person must file a request to participate in an objection within 10 days after publication of the notice of objection by the responsible official (§ 219.56(f)). The responsible official shall be a participant in all meetings involving the reviewing officer, objectors, and interested persons. During meetings with objectors and interested persons, the reviewing officer may choose to use alternative dispute resolution methods to resolve objections. All meetings are open to observation by the public.

(b) Response to objections.

(1) The reviewing officer must render a written response to the objection(s) within 90 days of the close of the objection-filing period, unless the allowable time is extended as provided at § 219.56(g). A written response must set forth the reasons for the response but need not be a point-by-point response, and may contain instructions to the responsible official. In cases involving more than one objection to a plan, plan amendment, or plan revision, the reviewing officer may consolidate objections and issue one or more responses. The response must be sent to the objecting party(ies) by certified mail, return receipt requested, and posted online.

(2) The reviewing officer's review of and response to the objection(s) is limited to only those issues and concerns submitted in the objection(s).

(3) The response of the reviewing officer will be the final decision of the U.S. Department of Agriculture on the objection.

FSH 1909.15 – National Environmental Policy Act Handbook (USFS)

11 - Conduct Scoping

...

Scoping is required for all Forest Service proposed actions, including those that would appear to be categorically excluded from further analysis and documentation in an EA or an EIS (§220.6). (36 C.F.R. § 220.4(e)(1))

...

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under §1507.3(c). An agency may give notice in accordance with §1506.6.

11.3 - Identify Responsible Official(s) and Agencies Involved

The Agency employee who has the authority to make and implement a decision on a proposed action (36 C.F.R. § 220.3) is the responsible official for NEPA compliance. When an action is proposed, the responsible official shall identify and contact other Federal, State, or local agencies with an interest in the action

11.31b - Cooperating with Other Agencies

The lead agency has the responsibility to solicit cooperation from other Federal, Tribal, State or local agencies with jurisdiction by law or special expertise on environmental issues that should be addressed in the environmental analysis.

Whenever invited Federal, State, Tribal and local agencies elect not to become cooperating agencies, they should still be considered for inclusion in interdisciplinary teams engaged in the NEPA process and on distribution lists for review and comment on NEPA documents. (CEQ Memorandum for Heads of Federal Agencies, 1/30/2002).

Agencies are encouraged to document the cooperating agency agreements. Identify specific expectations, roles and responsibilities, and include issues such as preparation of analysis, schedules, availability of pre-decisional information and other issues. Cooperating agencies are normally expected to fund their activities, but to the extent possible the lead agency should fund major activities or analyses (40 C.F.R. § 1501.6(b)(5)). Consider CEQ's guidance for determining whether to invite, decline, or end cooperating agency status (CEQ Memorandum, 1/30/2002, Attachment 1). Additional resources, including memorandum of understanding and interagency agreement templates, can be found in the Partnership Resource Center.

...

11.32 - Elimination of Duplication with State and Local Procedures

...

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law (40 C.F.R. § 1506.2).

36 C.F.R. Part 212 et seq. - Travel Management Rule (USFS)

36 C.F.R. § 212.53 - Coordination with Federal, State, county, and other local governmental entities and tribal governments (USFS)

The responsible official shall coordinate with appropriate Federal, State, county, and other local governmental entities and tribal governments when designating National Forest System roads, National Forest System trails, and areas on National Forest System lands pursuant to this subpart.

Appendix II. Federal Land Management Statutes and Regulations - Bureau of Land Management

FLPMA laws (43 U.S.C. Part 1701 et seq.) are available at U.S. Government Printing Office at:
<http://www.gpo.gov/fdsys/search/pagedetails.action?st=43+U.S.C.+1701&granuleId=U.S.C.ODE-2012-title43-chap35-subchapI-sec1701&packageId=U.S.C.ODE-2012-title43>

FLPMA rules and regulations (43 C.F.R. Part 1600 et seq. and 43 C.F.R. Part 46.100 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=43+C.F.R.+1601.0&granuleId=C.F.R.-2013-title43-vol2-sec1601-0-1&packageId=C.F.R.-2013-title43-vol2>

and

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=43+C.F.R.+46.100&granuleId=C.F.R.-2013-title43-vol1-sec46-100&packageId=C.F.R.-2013-title43-vol1>

43 U.S.C. Part 1701 et seq. - Federal Land Policy and Management Act (FLPMA)

“An act: To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes” (43 U.S.C. Part 1701).

“The Congress declares that it is the policy of the United States that the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest” (43 U.S.C. Part 1701).

43 U.S.C. Part 1701 - Congressional declaration of policy (FLPMA)

(a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

...

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

...

43 U.S.C. Part 1702 – Definitions (FLPMA)

...

(c) The term “multiple use” means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people ... including, but not limited to, recreation, range,

timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values...

(d) The term “public involvement” means the opportunity for participation by affected citizens in rulemaking, decision-making, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term “public lands” means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management...

...

(h) The term “sustained yield” means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

...

43 U.S.C. Part 1712 - Land use plans (FLPMA – Section 202)

...

(a) Development, maintenance, and revision by Secretary

The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands...

...

(c) Criteria for development and revision

In the development and revision of land use plans, the Secretary shall—

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

...

(5) consider present and potential uses of the public lands;

...

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located... In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land

use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

...

(f) Procedures applicable to formulation of plans and programs for public land management
The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

43 U.S.C. Part 1732 - Management of use, occupancy, and development of public lands (FLPMA)

(a) Multiple use and sustained yield requirements applicable; exception

The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 1712 of this title when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

...

43 C.F.R. Part 1600, Subpart 1601 - Planning (BLM)

43 C.F.R. § 1601.0-5 Definitions (BLM)

...

(d) Eligible cooperating agency means:

(1) A Federal agency other than a lead agency that is qualified to participate in the development of environmental impact statements as provided in 40 C.F.R. §§ 1501.6 and 1508.5 or, as necessary, other environmental documents that BLM prepares, by virtue of its jurisdiction by law as defined in 40 C.F.R. § 1508.15, or special expertise as defined in 40 C.F.R. § 1508.26; or

(2) A federally recognized Indian tribe, a state agency, or a local government agency with similar qualifications.

(e) Cooperating agency means an eligible governmental entity that has entered into a written agreement with the BLM establishing cooperating agency status in the planning and NEPA processes. BLM and the cooperating agency will work together under the terms of the agreement. Cooperating agencies will participate in the various steps of BLM's planning process as feasible, given the constraints of their resources and expertise.

...

(h) Local government means any political subdivision of the State and any general purpose unit of local government with resource planning, resource management, zoning, or land use regulation authority.

...

(j) Officially approved and adopted resource related plans means plans, policies, programs and processes prepared and approved pursuant to and in accordance with authorization provided by Federal, State or local constitutions, legislation, or charters which have the force and effect of State law.

(k) Public means affected or interested individuals, including consumer organizations, public land resource users, corporations and other business entities, environmental organizations and other special interest groups and officials of State, local, and Indian tribal governments.

...

43 C.F.R. Part 1600, Subpart 1610 - Resource Management Planning (BLM)

43 C.F.R. § 1610.2 Public participation (BLM)

(a) The public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities. Public involvement in the resource management planning process shall conform to the requirements of the National Environmental Policy Act and associated implementing regulations.

...

(d) A list of individuals and groups known to be interested in or affected by a resource management plan shall be maintained by the Field Manager and those on the list shall be notified of public participation activities...

43 C.F.R. § 1610.3 Coordination with other Federal agencies, State and local governments, and Indian tribes (BLM)

43 C.F.R. § 1610.3-1 Coordination of planning efforts (BLM)

(a) In addition to the public involvement prescribed by §1610.2, the following coordination is to be accomplished with other Federal agencies, state and local governments, and federally recognized Indian tribes. The objectives of the coordination are for the State Directors and Field Managers to:

- (1) Keep apprised of non-Bureau of Land Management plans;
- (2) Assure that BLM considers those plans that are germane in the development of resource management plans for public lands;
- (3) Assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans;

(4) Provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and federally recognized Indian tribes, in the development of resource management plans, including early public notice of final decisions that may have a significant impact on non-Federal lands; and

(5) Where possible and appropriate, develop resource management plans collaboratively with cooperating agencies.

(b) When developing or revising resource management plans, BLM State Directors and Field Managers will invite eligible Federal agencies, state and local governments, and federally recognized Indian tribes to participate as cooperating agencies. The same requirement applies when BLM amends resource management plans through an environmental impact statement. State Directors and Field Managers will consider any requests of other Federal agencies, state and local governments, and federally recognized Indian tribes for cooperating agency status. Field Managers who deny such requests will inform the State Director of the denial. The State Director will determine if the denial is appropriate.

(c) State Directors and Field Managers shall provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs. To facilitate coordination with State governments, State Directors should seek the policy advice of the Governor(s) on the timing, scope and coordination of plan components; definition of planning areas; scheduling of public involvement activities; and the multiple use opportunities and constraints on public lands...

(d) In developing guidance to Field Manager, in compliance with section 1611 of this title, the State Director shall:

(1) Ensure that it is as consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected, as prescribed by §1610.3-2 of this title;

(2) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistencies exist and cannot be remedied; and

(3) Notify the other Federal agencies, State agencies, Indian tribes or local governments with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which the State Director believes may lead to resolution of such inconsistencies.

(e) A notice of intent to prepare, amend, or revise a resource management plan shall be submitted, consistent with State procedures for coordination of Federal activities, for circulation among State agencies. This notice shall also be submitted to Federal agencies, the heads of county boards, other local government units and Tribal Chairmen or Alaska Native Leaders that have requested such notices or that the responsible line manager has reason to believe would be concerned with the plan or amendment...

(f) Federal agencies, State and local governments and Indian tribes shall have the time period prescribed under §1610.2 of this title for review and comment on resource management plan proposals. Should they notify the Field Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land Management resource management plan and their officially approved and adopted resources related plans, the resource management plan documentation shall show how those inconsistencies were addressed and, if possible, resolved.

...

43 C.F.R. § 1610.3-2 Consistency requirements (BLM)

(a) Guidance and resource management plans and amendments to management framework plans shall be consistent with officially approved or adopted resource related plans, and the policies and programs contained therein, of other Federal agencies, State and local governments and Indian tribes , so long as the guidance and resource management plans are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands...

(b) In the absence of officially approved or adopted resource-related plans of other Federal agencies, State and local governments and Indian tribes, guidance and resource management plans shall, to the maximum extent practical, be consistent with officially approved and adopted resource related policies and programs of other Federal agencies, State and local governments and Indian tribes...

(c) State Directors and Field Managers shall, to the extent practicable, keep apprised of State and local governmental and Indian tribal policies, plans, and programs, but they shall not be accountable for ensuring consistency if they have not been notified, in writing, by State and local governments or Indian tribes of an apparent inconsistency.

(d) Where State and local government policies, plans, and programs differ, those of the higher authority will normally be followed.

(e) Prior to the approval of a proposed resource management plan, or amendment to a management framework plan or resource management plan, the State Director shall submit to the Governor of the State(s) involved, the proposed plan or amendment and shall identify any known inconsistencies with State or local plans, policies or programs. The Governor(s) shall have 60 days in which to identify inconsistencies and provide recommendations in writing to the State Director... If the State Director does not accept the recommendations of the Governor(s), The State Director shall notify the Governor(s) and the Governor(s) shall have 30 days in which to submit a written appeal to the Director of the Bureau of Land Management. The Director shall accept the recommendations of the Governor(s) if he/she determines that they provide for a reasonable balance between the national interest and the State's interest. The Director shall communicate to the Governor(s) in writing and publish in the Federal Register the reasons for his/her determination to accept or reject such Governor's recommendations.

43 C.F.R. § 1610.4 Resource management planning process (BLM)

43 C.F.R. § 1610.4-1 Identification of issues (BLM)

At the outset of the planning process, the public, other Federal agencies, State and local governments and Indian tribes shall be given an opportunity to suggest concerns, needs, and resource use, development and protection opportunities for consideration in the preparation of the resource management plan. The Field Manager, in collaboration with any cooperating agencies, will analyze those suggestions ... and select topics and determine the issues to be addressed during the planning process...

43 C.F.R. § 1610.4-2 Development of planning criteria (BLM)

...

(b) Planning criteria will generally be based upon applicable law, Director and State Director guidance, the results of public participation, and coordination with any cooperating agencies and other Federal agencies, State and local governments, and federally recognized Indian tribes.

...

43 C.F.R. § 1610.4-3 Inventory data and information collection (BLM)

The Field Manager, in collaboration with any cooperating agencies, will arrange for resource, environmental, social, economic and institutional data and information to be collected, or assembled if already available...

43 C.F.R. § 1610.4-4 Analysis of the management situation (BLM)

The Field Manager, in collaboration with any cooperating agencies, will analyze the inventory data and other information available to determine the ability of the resource area to respond to identified issues and opportunities... Factors to be considered may include, but are not limited to:

...

(e) Specific requirements and constraints to achieve consistency with policies, plans and programs of other Federal agencies, State and local government agencies and Indian tribes;

...

(g) Degree of local dependence on resources from public lands;

...

43 C.F.R. § 1610.4-5 Formulation of alternatives (BLM)

At the direction of the Field Manager, in collaboration with any cooperating agencies, BLM will consider all reasonable resource management alternatives and develop several complete alternatives for detailed study...

43 C.F.R. § 1610.4-6 Estimation of effects of alternatives (BLM)

The Field Manager, in collaboration with any cooperating agencies, will estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail...

43 C.F.R. § 1610.4-7 Selection of preferred alternatives (BLM)

The Field Manager, in collaboration with any cooperating agencies, will evaluate the alternatives, estimate their effects according to the planning criteria, and identify a preferred alternative that best meets Director and State Director guidance...

43 C.F.R. Part 46, Subpart B - Protection and Enhancement of Environmental Quality (DOI)

43 C.F.R. § 46.110 Incorporating consensus-based management (DOI)

(a) Consensus-based management incorporates direct community involvement in consideration of bureau activities subject to NEPA analyses, from initial scoping to implementation of the bureau decision. It seeks to achieve agreement from diverse interests on the goals of, purposes of, and needs for bureau plans and activities, as well as the methods anticipated to carry out those plans and activities. For the purposes of this Part, consensus-based management involves outreach to persons, organizations or communities who may be interested in or affected by a proposed action with an assurance that their input will be given consideration by the Responsible Official in selecting a course of action.

(b) In incorporating consensus-based management in the NEPA process, bureaus should consider any consensus-based alternative(s) put forth by those participating persons, organizations or communities who may be interested in or affected by the proposed action... bureaus must be able to show that the reasonable consensus-based alternative, if any, is reflected in the evaluation of the proposed action and discussed in the final decision. To be selected for implementation, a consensus-based alternative must be fully consistent with NEPA, the CEQ regulations, and all applicable statutory and regulatory provisions, as well as Departmental and bureau written policies and guidance.

(c) The Responsible Official must, whenever practicable, use a consensus-based management approach to the NEPA process.

(d) If the Responsible Official determines that the consensus-based alternative, if any, is not the preferred alternative, he or she must state the reasons for this determination in the environmental document.

(e) When practicing consensus-based management in the NEPA process, bureaus must comply with all applicable laws, including any applicable provisions of the Federal Advisory Committee Act (FACA).

43 C.F.R. § 46.155 Consultation, coordination, and cooperation with other agencies (DOI)

The Responsible Official must whenever possible consult, coordinate, and cooperate with relevant State, local, and tribal governments and other bureaus and Federal agencies concerning the environmental effects of any Federal action within the jurisdictions or related to the interests of these entities.

43 C.F.R. Part 46, Subpart C - Initiating the NEPA Process (DOI)

43 C.F.R. § 46.200 Applying NEPA early (DOI)

(a) For any potentially major proposed Federal action (40 C.F.R. §§ 1508.23 and 1508.18) that may have potentially significant environmental impacts, bureaus must coordinate, as early as feasible, with:

(1) Any other bureaus or Federal agencies, State, local, and tribal governments having jurisdiction by law or special expertise; and

(2) Appropriate Federal, State, local, and tribal governments authorized to develop and enforce environmental standards or to manage and protect natural resources or other aspects of the human environment.

...

(d) Bureaus should inform private or non-Federal applicants, to the extent feasible, of:

...

(2) Any consultation with other Federal agencies, or State, local, or tribal governments that the applicant must accomplish before or during the application process.

...

43 C.F.R. § 46.220 How to designate lead agencies (DOI)

(a) In most cases, the Responsible Official should designate one Federal agency as the lead with the remaining Federal, State, tribal governments, and local agencies assuming the role of cooperating agency. In this manner, the other Federal, State, and local agencies can work to ensure that the NEPA document will meet their needs for adoption and application to their related decision(s).

(b) In some cases, a non-Federal agency (including a tribal government) must comply with State or local requirements that are comparable to the NEPA requirements. In these cases, the Responsible Official may designate the non-Federal agency as a joint lead agency. (See

40 C.F.R. §§ 1501.5 and 1506.2 for a description of the selection of lead agencies, the settlement of lead agency disputes, and the use of joint lead agencies.)

...

43 C.F.R. § 46.225 How to select cooperating agencies (DOI)

(a) An “eligible governmental entity” is:

...

(3) Any non-Federal agency (State, tribal, or local) with qualifications similar to those in paragraphs (a)(1) and (a)(2) of this section.

...

43 C.F.R. Part 8340 et seq. - Recreation Programs - Off-Road Vehicles (DOI)

43 C.F.R. § 8342.2 - Designation procedures (DOI)

(a) Public participation.

The designation and re-designation of trails is accomplished through the resource management planning process described in part 1600 of this title. Current and potential impacts of specific vehicle types on all resources and uses in the planning area shall be considered in the process of preparing resource management plans, plan revisions, or plan amendments. Prior to making designations or re-designations, the authorized officer shall consult with interested user groups, Federal, State, county and local agencies, local landowners, and other parties in a manner that provides an opportunity for the public to express itself and have its views given consideration.

43 U.S.C. Part 1739 – Advisory Councils (FLPMA)

(a) Establishment; membership; operation

The Secretary shall establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens’ interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770).

...

(d) Functions

An advisory council may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

(e) Public participation; procedures applicable

In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

BLM Arizona RAC

In Arizona, the BLM has formed a 15-member RAC including 3 categories of appointments (5-members each), along with a Governor's representative:

- Category 1: Commercial/Commodity Interests;
- Category 2: Environmental, Dispersed Recreation, Archeological/Historic, Wild Horse & Burro Interests;
- Category 3: Elected officials, Native American, Public at Large, Academia, State and Local Government Officials.

<i>Name</i>	<i>Representing</i>	<i>Residence</i>	<i>Term</i>
Category 1: Commercial/Commodity Interests			
* Bill Brake	Grazing	Scottsdale	11/2016
Emmett Sturgill	Grazing	Kingman	11/2016
Stuart Bengson	Energy/Minerals	Tucson	09/2014
Thomas Hulen	Commercial Recreation	Tempe	09/2015
Maggie Sacher	Commercial Recreation	Marble Canyon	09/2015
Category 2: Environmental, Dispersed Recreation, Archeological/Historic, Wild Horse & Burro Interests			
Michael Quigley	Non-Commodity/Environmental	Tucson	11/2016
H. Maaik Schotborgh	Non-Commodity/Environmental	Tucson	11/2016
Glendon Collins	Non-Commodity/Dispersed Recreation	Phoenix	09/2014
Doug Traub	Non-Commodity/Dispersed Recreation	Lake Havasu City	09/2014
Carl Taylor	Non-Commodity/Historical/Archaeology	Flagstaff	09/2015
Category 3: Elected Officials, Native American, Public-at-Large, Academia, State and Local Government Officials			
H. Drew John	Local Area/Public-At-Large	Safford	11/2016

Dawn Hubbs	Local Area/Indian Tribe	Hackberry	09/2014
Larry Howery	Local Area/Academia	Tucson	09/2015
Jeffrey Sargent	Local Area/Public-At-Large	Peoria	09/2015
Gary Watson (vice Lunt)	Local Area/Elected Official	Kingman	09/2014
Governor's Representative			
Jim deVos (non-voting)	Arizona Game and Fish Department	Phoenix	N/A
* RAC Chair			

http://www.blm.gov/az/st/en/res/rac/az_rac_members.html

Appendix III. Federal Environmental Statutes and Regulations

16 U.S.C. Part 1531 et seq. - Endangered Species Act (ESA)

ESA laws (16 U.S.C. Part 1531 et seq.) are available at U.S. Government Printing Office at:
<http://www.gpo.gov/fdsys/search/pagedetails.action?st=16+U.S.C.+1531&granuleId=U.S.C.ODE-2012-title16-chap35-sec1531&packageId=U.S.C.ODE-2012-title16>

ESA rules and regulations (50 C.F.R. Part 400 et seq.) are available at U.S. Government Printing Office at:
<http://www.eC.F.R.gov/cgi-bin/searchEC.F.R.>

16 U.S.C. Part 1532 – Definitions (ESA)

...
(5)

(A) The term “critical habitat” for a threatened or endangered species means—

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 1533 of this title, on which are found those physical or biological features

(I) essential to the conservation of the species and

(II) which may require special management considerations or protection; and

(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 1533 of this title, upon a determination by the Secretary that such areas are essential for the conservation of the species.

(B) Critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraph (A) of this paragraph.

...

(6) The term “endangered species” means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this chapter would present an overwhelming and overriding risk to man.

...

(16) The term “species” includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.

...

(19) The term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(20) The term “threatened species” means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

...

16 U.S.C. Part 1533 - Determination of endangered species and threatened species (ESA – Section 4)

(a) Generally

(1) The Secretary shall by regulation promulgated in accordance with subsection (b) of this section determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) the present or threatened destruction, modification, or curtailment of its habitat or range;

(B) overutilization for commercial, recreational, scientific, or educational purposes;

(C) disease or predation;

(D) the inadequacy of existing regulatory mechanisms; or

(E) other natural or manmade factors affecting its continued existence.

...

(3)

(A) The Secretary, by regulation promulgated in accordance with subsection (b) of this section and to the maximum extent prudent and determinable—

(i) shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, designate any habitat of such species which is then considered to be critical habitat; and

...

(b) Basis for determinations

(1)

(A) The Secretary shall make determinations required by subsection (a)(1) of this section solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species...

...

(2) The Secretary shall designate critical habitat, and make revisions thereto, under subsection (a)(3) of this section on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat...

...

(5) With respect to any regulation proposed by the Secretary to implement a determination, designation, or revision referred to in subsection (a)(1) or (3) of this section, the Secretary shall—

(A) not less than 90 days before the effective date of the regulation—

...

(ii) give actual notice of the proposed regulation (including the complete text of the regulation) to the State agency in each State in which the species is believed to occur, and to each county, or equivalent jurisdiction in which the species is believed to occur, and invite the comment of such agency, and each such jurisdiction, thereon;

...

(E) promptly hold one public hearing on the proposed regulation if any person files a request for such a hearing within 45 days after the date of publication of general notice.

(6)

...

(C) A final regulation designating critical habitat of an endangered species or a threatened species shall be published concurrently with the final regulation implementing the determination that such species is endangered or threatened...

(c) Lists

(1) The Secretary of the Interior shall publish in the Federal Register a list of all species determined by him or the Secretary of Commerce to be endangered species and a list of all species determined by him or the Secretary of Commerce to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, specify with respect to each such species over what portion of its range it is endangered or threatened, and specify any critical habitat within such range...

...

(d) Protective regulations

Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species ... except that with respect to the taking of resident species of fish or wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 1535 (c) of this title only to the extent that such regulations have also been adopted by such State.

...

(f) Recovery plans

(1) The Secretary shall develop and implement plans (hereinafter in this subsection referred to as “recovery plans”) for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, shall, to the maximum extent practicable—

...

(B) incorporate in each plan—

(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

(iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

...

(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).

...

(h) Agency guidelines; publication in Federal Register; scope; proposals and amendments: notice and opportunity for comments

...

The Secretary shall provide to the public notice of, and opportunity to submit written comments on, any guideline (including any amendment thereto) proposed to be established under this subsection.

(i) Submission to State agency of justification for regulations inconsistent with State agency's comments or petition

If, in the case of any regulation proposed by the Secretary under the authority of this section, a State agency to which notice thereof was given in accordance with subsection (b)(5)(A)(ii) of this section files comments disagreeing with all or part of the proposed regulation, and the Secretary issues a final regulation which is in conflict with such comments, or if the Secretary fails to adopt a regulation pursuant to an action petitioned by a State agency under subsection (b)(3) of this section, the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition.

16 U.S.C. Part 1535 - Cooperation with States (ESA – Section 6)

(a) Generally

In carrying out the program authorized by this chapter, the Secretary shall cooperate to the maximum extent practicable with the States....

(b) Management agreements

The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation of endangered species or threatened species....

(c) Cooperative agreements

(1) In furtherance of the purposes of this chapter, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this chapter. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species and threatened species, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(A) authority resides in the State agency to conserve resident species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this chapter, for all resident species of fish or wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(D) the State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species of fish or wildlife; and

(E) provision is made for public participation in designating resident species of fish or wildlife as endangered or threatened;

...

(2) In furtherance of the purposes of this chapter the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. ... Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program...

...

(d) Allocation of funds

(1) The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement...

...

(f) Conflicts between Federal and State laws

Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered species or threatened species is void to the extent that it may effectively

(1) permit what is prohibited by this chapter or by any regulation which implements this chapter, or

(2) prohibit what is authorized pursuant to an exemption or permit provided for in this chapter or in any regulation which implements this chapter. This chapter shall not otherwise be construed to void any State law or regulation which is intended to conserve migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife. Any State law or regulation respecting the taking of an endangered species or threatened species may be more restrictive than the exemptions or permits provided for in this chapter or in any regulation which implements this chapter but not less restrictive than the prohibitions so defined.

...

16 U.S. Code § 1536 - Interagency cooperation (ESA - Section 7)

(a) Federal agency actions and consultations

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 1533 of this title.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

(3) Subject to such guidelines as the Secretary may establish, a Federal agency shall consult with the Secretary on any prospective agency action at the request of, and in cooperation with, the prospective permit or license applicant if the applicant has reason to believe that an endangered species or a threatened species may be present in the

area affected by his project and that implementation of such action will likely affect such species.

(4) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 1533 of this title or result in the destruction or adverse modification of critical habitat proposed to be designated for such species...

...

(c) Biological assessment

(1) To facilitate compliance with the requirements of subsection (a)(2) of this section, each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on November 10, 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action...

...

16 U.S.C. Part 1538 - Prohibited acts (ESA – Section 9)

(a) Generally

(1) Except as provided in sections 1535 (g)(2) and 1539 of this title, with respect to any endangered species of fish or wildlife listed pursuant to section 1533 of this title it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from the United States;

(B) take any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(F) sell or offer for sale in interstate or foreign commerce any such species; or

(G) violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

...

(b) Species held in captivity or controlled environment

(1) The provisions of subsections (a)(1)(A) and (a)(1)(G) of this section shall not apply to any fish or wildlife which was held in captivity or in a controlled environment ...

16 U.S. Code § 1539 – Exceptions (ESA – Section 10)

(a) Permits

(1) The Secretary may permit, under such terms and conditions as he shall prescribe—

(A) any act otherwise prohibited by section 1538 of this title for scientific purposes or to enhance the propagation or survival of the affected species, including, but not limited to, acts necessary for the establishment and maintenance of experimental populations pursuant to subsection (j) of this section; or

(B) any taking otherwise prohibited by section 1538 (a)(1)(B) of this title if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

...

(j) Experimental populations

(1) For purposes of this subsection, the term “experimental population” means any population (including any offspring arising solely therefrom) authorized by the Secretary for release under paragraph (2), but only when, and at such times as, the population is wholly separate geographically from non-experimental populations of the same species.

(2)

(A) The Secretary may authorize the release (and the related transportation) of any population (including eggs, propagules, or individuals) of an endangered species or a threatened species outside the current range of such species if the Secretary determines that such release will further the conservation of such species.

(B) Before authorizing the release of any population under subparagraph (A), the Secretary shall by regulation identify the population and determine, on the basis of the best available information, whether or not such population is essential to the continued existence of an endangered species or a threatened species.

(C) For the purposes of this chapter, each member of an experimental population shall be treated as a threatened species; except that—

(i) solely for purposes of section 1536 of this title (other than subsection (a)(1) thereof), an experimental population determined under subparagraph (B) to be not essential to the continued existence of a species shall be treated, except when it occurs in an area within the National Wildlife Refuge System or the

National Park System, as a species proposed to be listed under section 1533 of this title; and

(ii) critical habitat shall not be designated under this chapter for any experimental population determined under subparagraph (B) to be not essential to the continued existence of a species.

(3) The Secretary, with respect to populations of endangered species or threatened species that the Secretary authorized, before October 13, 1982, for release in geographical areas separate from the other populations of such species, shall determine by regulation which of such populations are an experimental population for the purposes of this subsection and whether or not each is essential to the continued existence of an endangered species or a threatened species.

50 C.F.R. § 402.03 – Applicability (USFWS)

Section 7 and the requirements of this part apply to all actions in which there is discretionary Federal involvement or control.

50 C.F.R. § 17.22 - Permits for scientific purposes, enhancement of propagation or survival, or for incidental taking (USFWS)

...
(b)

(1) Application requirements for permits for incidental taking.

A person wishing to get a permit for an activity prohibited by § 17.21(c) submits an application for activities under this paragraph. The Service provides Form 3-200 for the application to which all of the following must be attached:

...

(iii) A conservation plan that specifies:

(A) The impact that will likely result from such taking;

(B) What steps the applicant will take to monitor, minimize, and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to be used to deal with unforeseen circumstances;

(C) What alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be utilized; and

(D) Such other measures that the Director may require as being necessary or appropriate for purposes of the plan;

(2) Issuance criteria.

(i) Upon receiving an application completed in accordance with paragraph (b)(1) of this section, the Director will decide whether or not a permit should be issued ... and shall issue the permit if he or she finds that:

(A) The taking will be incidental;

(B) The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such takings;

(C) The applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided;

(D) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild;

(E) The measures, if any, required under paragraph (b)(1)(iii)(D) of this section will be met; and

(F) He or she has received such other assurances as he or she may require that the plan will be implemented.

(ii) In making his or her decision, the Director shall also consider the anticipated duration and geographic scope of the applicant's planned activities, including the amount of listed species habitat that is involved and the degree to which listed species and their habitats are affected.

(3) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this paragraph shall contain such terms and conditions as the Director deems necessary or appropriate to carry out the purposes of the permit and the conservation plan including, but not limited to, monitoring and reporting requirements deemed necessary for determining whether such terms and conditions are being complied with. The Director shall rely upon existing reporting requirements to the maximum extent practicable.

(4) Duration of permits. The duration of permits issued under this paragraph shall be sufficient to provide adequate assurances to the permittee to commit funding necessary for the activities authorized by the permit, including conservation activities and land use restrictions. In determining the duration of a permit, the Director shall consider the duration of the planned activities, as well as the possible positive and negative effects associated with permits of the proposed duration on listed species, including the extent to which the conservation plan will enhance the habitat of listed species and increase the long-term survivability of such species.

(5) Assurances provided to permittee in case of changed or unforeseen circumstances.

...

(ii) Changed circumstances not provided for in the plan. If additional conservation and mitigation measures are deemed necessary to respond to changed circumstances and such measures were not provided for in the plan's operating

conservation program, the Director will not require any conservation and mitigation measures in addition to those provided for in the plan without the consent of the permittee, provided the plan is being properly implemented.

(iii) Unforeseen circumstances.

(A) In negotiating unforeseen circumstances, the Director will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for the species covered by the conservation plan without the consent of the permittee.

(B) If additional conservation and mitigation measures are deemed necessary to respond to unforeseen circumstances, the Director may require additional measures of the permittee where the conservation plan is being properly implemented, but only if such measures are limited to modifications within conserved habitat areas, if any, or to the conservation plan's operating conservation program for the affected species, and maintain the original terms of the conservation plan to the maximum extent possible. Additional conservation and mitigation measures will not involve the commitment of additional land, water or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for development or use under the original terms of the conservation plan without the consent of the permittee.

(C) The Director will have the burden of demonstrating that unforeseen circumstances exist, using the best scientific and commercial data available. These findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species...

...

(7) Discontinuance of permit activity. Notwithstanding the provisions of § 13.26 of this subchapter, a permittee under this paragraph (b) remains responsible for any outstanding minimization and mitigation measures required under the terms of the permit for take that occurs prior to surrender of the permit and such minimization and mitigation measures as may be required pursuant to the termination provisions of an implementing agreement, habitat conservation plan, or permit even after surrendering the permit to the Service pursuant to § 13.26 of this subchapter. The permit shall be deemed canceled only upon a determination by the Service that such minimization and mitigation measures have been implemented. Upon surrender of the permit, no further take shall be authorized under the terms of the surrendered permit.

(8) Criteria for revocation. A permit issued under paragraph (b) of this section may not be revoked for any reason except those set forth in § 13.28(a)(1) through (4) of this subchapter or unless continuation of the permitted activity would be inconsistent with the criterion set forth in 16 U.S.C. 1539(a)(2)(B)(iv) and the inconsistency has not been remedied.

(c)

(1) Application requirements for permits for the enhancement of survival through Safe Harbor Agreements.

... The applicant must submit an official Service application form (3-200.54) that includes the following information:

...

(ii) A description of how incidental take of the listed species pursuant to the Safe Harbor Agreement is likely to occur, both as a result of management activities and as a result of the return to baseline; and

(iii) A Safe Harbor Agreement that complies with the requirements of the Safe Harbor policy available from the Service.

(2) Issuance criteria. Upon receiving an application completed in accordance with paragraph (c)(1) of this section, the Director will decide whether or not to issue a permit ... and may issue the permit if he or she finds:

(i) The take will be incidental to an otherwise lawful activity and will be in accordance with the terms of the Safe Harbor Agreement;

(ii) The implementation of the terms of the Safe Harbor Agreement is reasonably expected to provide a net conservation benefit to the affected listed species by contributing to the recovery of listed species included in the permit, and the Safe Harbor Agreement otherwise complies with the Safe Harbor policy available from the Service;

(iii) The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any listed species;

(iv) Implementation of the terms of the Safe Harbor Agreement is consistent with applicable Federal, State, and Tribal laws and regulations;

(v) Implementation of the terms of the Safe Harbor Agreement will not be in conflict with any ongoing conservation or recovery programs for listed species covered by the permit; and

(vi) The applicant has shown capability for and commitment to implementing all of the terms of the Safe Harbor Agreement.

...

(5) Assurances provided to permittee.

...

(ii) ... the Director may not require additional or different management activities to be undertaken by a permittee without the consent of the permittee.

...

(7) Criteria for revocation. ... The Director may revoke a permit if continuation of the permitted activity would either appreciably reduce the likelihood of survival and

recovery in the wild of any listed species or directly or indirectly alter designated critical habitat such that it appreciably diminishes the value of that critical habitat for both the survival and recovery of a listed species. Before revoking a permit for either of the latter two reasons, the Director, with the consent of the permittee, will pursue all appropriate options to avoid permit revocation. These options may include, but are not limited to: extending or modifying the existing permit, capturing and relocating the species, compensating the landowner to forgo the activity, purchasing an easement or fee simple interest in the property, or arranging for a third-party acquisition of an interest in the property.

(8) Duration of permits. The duration of permits issued under this paragraph (c) must be sufficient to provide a net conservation benefit to species covered in the enhancement of survival permit...

(d)

(1) Application requirements for permits for the enhancement of survival through Candidate Conservation Agreements with Assurances.

...

(2) Issuance criteria. Upon receiving an application completed in accordance with paragraph (d)(1) of this section, the Director will decide whether or not to issue a permit ... and may issue the permit if he or she finds:

(i) The take will be incidental to an otherwise lawful activity and will be in accordance with the terms of the Candidate Conservation Agreement;

...

(iii) The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any species;

(iv) Implementation of the terms of the Candidate Conservation Agreement is consistent with applicable Federal, State, and Tribal laws and regulations;

(v) Implementation of the terms of the Candidate Conservation Agreement will not be in conflict with any ongoing conservation programs for species covered by the permit; and

(vi) The applicant has shown capability for and commitment to implementing all of the terms of the Candidate Conservation Agreement.

...

(5) Assurances provided to permittee in case of changed or unforeseen circumstances. The assurances in this paragraph (d)(5) apply only to permits issued in accordance with paragraph (d)(2) where the Candidate Conservation with Assurances Agreement is being properly implemented...

...

(ii) Changed circumstances not provided for in the Agreement. If the Director determines that additional conservation measures not provided for in the Agreement are necessary to respond to changed circumstances, the Director will not require any conservation measures in addition to those provided for in the

Agreement without the consent of the permittee, provided the Agreement is being properly implemented.

(iii) Unforeseen circumstances.

(A) In negotiating unforeseen circumstances, the Director will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for the species covered by the Agreement without the consent of the permittee.

(B) If the Director determines additional conservation measures are necessary to respond to unforeseen circumstances, the Director may require additional measures of the permittee where the Agreement is being properly implemented, but only if such measures maintain the original terms of the Agreement to the maximum extent possible. Additional conservation measures will not involve the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources otherwise available for development or use under the original terms of the Agreement without the consent of the permittee.

(C) The Director will have the burden of demonstrating that unforeseen circumstances exist, using the best scientific and commercial data available. These findings must be clearly documented and based upon reliable technical information regarding the status and habitat requirements of the affected species...

...

(7) Criteria for revocation. ... The Director may revoke a permit if continuation of the permitted activity would either appreciably reduce the likelihood of survival and recovery in the wild of any listed species or directly or indirectly alter designated critical habitat such that it appreciably diminishes the value of that critical habitat for both the survival and recovery of a listed species. Before revoking a permit for either of the latter two reasons, the Director, with the consent of the permittee, will pursue all appropriate options to avoid permit revocation. These options may include, but are not limited to: extending or modifying the existing permit, capturing and relocating the species, compensating the landowner to forgo the activity, purchasing an easement or fee simple interest in the property, or arranging for a third-party acquisition of an interest in the property.

(8) Duration of the Candidate Conservation Agreement. The duration of a Candidate Conservation Agreement covered by a permit issued under this paragraph (d) must be sufficient to enable the Director to determine that the benefits of the conservation measures in the Agreement, when combined with those benefits that would be achieved if it is assumed that the conservation measures would also be implemented on other necessary properties, would preclude or remove any need to list the species covered by the Agreement.

33 U.S.C. Part 1251 et seq. - Clean Water Act (CWA)

CWA laws (33 U.S.C. Part 1251 et seq.) are available at U.S. Government Publishing Office at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=33+U.S.C.+1251&granuleId=U.S.C.ODE-2012-title33-chap26-subchapl-sec1251&packageId=U.S.C.ODE-2012-title33>

CWA rules and regulations (40 C.F.R. Part 130 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=40+C.F.R.+130&granuleId=C.F.R.-2013-title40-vol23-sec130-3&packageId=C.F.R.-2013-title40-vol23>

33 U.S.C. Part 1311 - Effluent limitations (CWA Section 301)

(a) Illegality of pollutant discharges except in compliance with law

Except as in compliance with this section and sections 1312, 1316, 1317, 1328, 1342, and 1344 of this title, the discharge of any pollutant by any person shall be unlawful.

...

(g) Modifications for certain nonconventional pollutants

(1) General authority

The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP)...

...

(h) Modification of secondary treatment requirements

The Administrator, with the concurrence of the State, may issue a permit under section 1342 of this title which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters...

...

(m) Modification of effluent limitation requirements for point sources

(1) The Administrator, with the concurrence of the State, may issue a permit under section 1342 of this title which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 1343 of this title, with respect to effluent limitations...

...

(n) Fundamentally different factors

(1) General rule

The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) of this section or section 1317(b) of this title for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility...

...

(p) Modified permit for coal remining operations

(1) In general

Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 1342(b) of this title, may issue a permit under section 1342 of this title which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge...

(2) Limitations

The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation...

...

33 U.S.C. Part 1312 - Water quality related effluent limitations (CWA Section 302)

(a) Establishment

Whenever, in the judgment of the Administrator or as identified under section 1314(l) of this title, discharges of pollutants from a point source or group of point sources, with the application of effluent limitations required under section 1311(b)(2) of this title, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

(b) Modifications of effluent limitations

...

(2) Permits

(A) No reasonable relationship

The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants...

(B) Reasonable progress

The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years...

...

33 U.S.C. Part 1313 - Water Quality Standards and Implementation Plans (CWA Section 303)

(a) Existing water quality standards

...

(b) Proposed regulations

(1) The Administrator shall promptly prepare and publish proposed regulations setting forth water quality standards for a State in accordance with the applicable requirements of this Act as in effect immediately prior to October 18, 1972, if—

(A) the State fails to submit water quality standards within the times prescribed in subsection (a) of this section.

(B) a water quality standard submitted by such State under subsection (a) of this section is determined by the Administrator not to be consistent with the applicable requirements of subsection (a) of this section.

...

(c) Review; revised standards; publication

(1) The Governor of a State or the State water pollution control agency of such State shall from time to time (but at least once each three year period beginning with October 18, 1972) hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards...

(2)

(A) Whenever the State revises or adopts a new standard, such revised or new standard shall be submitted to the Administrator. Such revised or new water quality standard shall consist of the designated uses of the navigable waters involved and the water quality criteria for such waters based upon such uses. Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this chapter. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial, and other purposes, and also taking into consideration their use and value for navigation.

(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 1317(a)(1) of this title for which criteria have been published under section 1314(a) of this title, the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses...

...

(d) Identification of areas with insufficient controls; maximum daily load; certain effluent limitations revision

(1)

...

(B) Each State shall identify those waters or parts thereof within its boundaries for which controls on thermal discharges under section 1311 of this title are not stringent enough to assure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife.

(C) Each State shall establish for the waters identified in paragraph (1)(A) of this subsection, and in accordance with the priority ranking, the total maximum daily load, for those pollutants which the Administrator identifies under section 1314(a)(2) of this title as suitable for such calculation. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

...

(e) Continuing planning process

(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this chapter.

....

33 U.S.C. Part 1324 - Clean lakes (CWA section 314)

(a) Establishment and scope of program

(1) State program requirements

Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

...

(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

...

Proposed “Definition of ‘Waters of the United States’ Under the Clean Water Act” (40 C.F.R. § 230.3)

...

(s) For purposes of all sections of the Clean Water Act, 33 U.S.C. 1251 et seq. and its implementing regulations, subject to the exclusions in paragraph (t) of this section, the term “waters of the United States” means:

(1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters, including interstate wetlands;

(3) The territorial seas;

(4) All impoundments of waters identified in paragraphs (s)(1) through (3) and (5) of this section;

(5) All tributaries of waters identified in paragraphs (s)(1) through (4) of this section;

(6) All waters, including wetlands, adjacent to a water identified in paragraphs (s)(1) through (5) of this section; and

(7) On a case-specific basis, other waters, including wetlands, provided that those waters alone, or in combination with other similarly situated waters, including wetlands, located in the same region, have a significant nexus to a water identified in paragraphs (s)(1) through (3) of this section.

(t) The following are not “waters of the United States” notwithstanding whether they meet the terms of paragraphs (s)(1) through (7) of this section—

(1) Waste treatment systems, including treatment ponds or lagoons, designed to meet the requirements of the Clean Water Act.

(2) Prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act the final authority regarding Clean Water Act jurisdiction remains with EPA.

(3) Ditches that are excavated wholly in uplands, drain only uplands, and have less than perennial flow.

(4) Ditches that do not contribute flow, either directly or through another water, to a water identified in paragraphs (s)(1) through (4) of this section.

(5) The following features:

- (i) Artificially irrigated areas that would revert to upland should application of irrigation water to that area cease;
- (ii) Artificial lakes or ponds created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing;
- (iii) Artificial reflecting pools or swimming pools created by excavating and/or diking dry land;
- (iv) Small ornamental waters created by excavating and/or diking dry land for primarily aesthetic reasons;
- (v) Water-filled depressions created incidental to construction activity;
- (vi) Groundwater, including groundwater drained through subsurface drainage systems; and
- (vii) Gullies and rills and non-wetland swales.

(u) Definitions—

- (1) Adjacent. The term adjacent means bordering, contiguous or neighboring. Waters, including wetlands, separated from other waters of the United States by man-made dikes or barriers, natural river berms, beach dunes and the like are “adjacent waters.”
- (2) Neighboring. The term neighboring, for purposes of the term “adjacent” in this section, includes waters located within the riparian area or floodplain of a water identified in paragraphs (s)(1) through (5) of this section, or waters with a shallow subsurface hydrologic connection or confined surface hydrologic connection to such a jurisdictional water. Proposed “Definition of ‘Waters of the United States’ Under the Clean Water Act” at 40 C.F.R. § 230.2
- (3) Riparian area. The term riparian area means an area bordering a water where surface or subsurface hydrology directly influence the ecological processes and plant and animal community structure in that area. Riparian areas are transitional areas between aquatic and terrestrial ecosystems that influence the exchange of energy and materials between those ecosystems.
- (4) Floodplain. The term floodplain means an area bordering inland or coastal waters that was formed by sediment deposition from such water under present climatic conditions and is inundated during periods of moderate to high water flows.
- (5) Tributary. The term tributary means a water physically characterized by the presence of a bed and banks and ordinary high water mark, as defined at 33 C.F.R. § 328.3(e), which contributes flow, either directly or through another water, to a water identified in paragraphs (s)(1) through (4) of this section. In addition, wetlands, lakes, and ponds are tributaries (even if they lack a bed and banks or ordinary high water mark) if they

contribute flow, either directly or through another water to a water identified in paragraphs (s)(1) through (3) of this section. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more man-made breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands at the head of or along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A tributary, including wetlands, can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, lakes, ponds, impoundments, canals, and ditches not excluded in paragraph (t)(3) or (4) of this section.

(6) Wetlands. The term wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

(7) Significant nexus. The term significant nexus means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region (i.e., the watershed that drains to the nearest water identified in paragraphs (s)(1) through (3) of this section), significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (s)(1) through (3) of this section. For an effect to be significant, it must be more than speculative or insubstantial. Other waters, including wetlands, are similarly situated when they perform similar functions and are located sufficiently close together or sufficiently close to a “water of the United States” so that they can be evaluated as a single landscape unit with regard to their effect on the chemical, physical, or biological integrity of a water identified in paragraphs (s)(1) through (3) of this section.

The U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency propose to make identical changes as described in the preamble to the definition of “waters of the United States” at 33 C.F.R. § 328.3 and 40 C.F.R. §§ 110.1, 112.2, 116.3, 117.1, 122.2, 232.2, 300.5, part 300 App. E, 302.3 and 401.11.

42 U.S.C. Part 7401 et seq. - Clean Air Act (CAA)

CAA laws (42 U.S.C. Part 7401 et seq.) are available at U.S. Government Publishing Office at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=42+U.S.C.+7401&granuleId=U.S.C.ODE-2010-title42-chap85-subchapl-partA-sec7401&packageId=U.S.C.ODE-2010-title42>

CAA rules and regulations (40 C.F.R. Part 50 et seq.) are available at U.S. Government Printing Office at:

<http://www.eC.F.R..gov/cgi-bin/retrieveEC.F.R.?gp=1&SID=6fc16990993658c1ecb88ed980b35f2a&h=L&n=40y2.0.1.1.1&r=PART&ty=HTML>

42 U.S.C. Part 7402 - Cooperative activities (CAA)

(a) Interstate cooperation; uniform State laws; State compacts

The Administrator shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

...

(c) Consent of Congress to compacts

The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for

(1) cooperative effort and mutual assistance for the prevention and control of air pollution and the enforcement of their respective laws relating thereto, and

(2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements or compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by Congress...

42 U.S.C. Part 7410 - State implementation plans for national primary and secondary ambient air quality standards (CAA)

(a) Adoption of plan by State; submission to Administrator; content of plan; revision; new sources; indirect source review program; supplemental or intermittent control systems

(1) Each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator, within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof) under section 7409 of this title for any air pollutant, a plan which provides for implementation, maintenance, and enforcement of such primary standard in each air quality control region (or portion thereof) within such State...

(2) Each implementation plan submitted by a State under this chapter shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—

(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter;

(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—

(i) monitor, compile, and analyze data on ambient air quality, and

...

(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter;

(D) contain adequate provisions—

(i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or

(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility,

(ii) insuring compliance with the applicable requirements of sections 7426 and 7415 of this title (relating to interstate and international pollution abatement);

(E) provide

(i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan...

...

(iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan

provision, the State has responsibility for ensuring adequate implementation of such plan provision;

(F) require, as may be prescribed by the Administrator—

(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

...

(5)

(A)

(i) Any State may include in a State implementation plan, but the Administrator may not require as a condition of approval of such plan under this section, any indirect source review program. The Administrator may approve and enforce, as part of an applicable implementation plan, an indirect source review program which the State chooses to adopt and submit as part of its plan.

...

(c) Preparation and publication by Administrator of proposed regulations setting forth implementation plan; transportation regulations study and report; parking surcharge; suspension authority; plan implementation

...

(3) Upon application of the chief executive officer of any general purpose unit of local government, if the Administrator determines that such unit has adequate authority under State or local law, the Administrator may delegate to such unit the authority to implement and enforce within the jurisdiction of such unit any part of a plan promulgated under this subsection. Nothing in this paragraph shall prevent the Administrator from implementing or enforcing any applicable provision of a plan promulgated under this subsection.

...

(f) National or regional energy emergencies; determination by President

(1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and opportunity for public hearing, the Governor of the State in which such source is located may petition the President to determine that a national or regional energy emergency exists of such severity that—

...

(3) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator, if any. The Administrator may disapprove such suspension if he determines that it does not meet the requirements of paragraph (2).

...

(5) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule...

(g) Governor's authority to issue temporary emergency suspensions

(1) ... the Governor may issue a temporary emergency suspension of the part of the applicable implementation plan for such State which is proposed to be revised with respect to such source...

(2) A temporary emergency suspension issued by a Governor under this subsection shall remain in effect for a maximum of four months or such lesser period as may be specified in a disapproval order of the Administrator...

(3) The Governor may include in any temporary emergency suspension issued under this subsection a provision delaying for a period identical to the period of such suspension any compliance schedule...

...

(j) Technological systems of continuous emission reduction on new or modified stationary sources; compliance with performance standards

As a condition for issuance of any permit required under this subchapter, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is to be used at such source will enable it to comply with the standards of performance which are to apply to such source and that the construction or modification and operation of such source will be in compliance with all other requirements of this chapter.

...

(p) Reports

Any State shall submit, according to such schedule as the Administrator may prescribe, such reports as the Administrator may require relating to emission reductions...

42 U.S.C. Part 7416 - Retention of State authority (CAA)

Except as otherwise provided in sections 1857c–10(c), (e), and (f) (as in effect before August 7, 1977), 7543, 7545(c)(4), and 7573 of this title (preempting certain State regulation of moving sources) nothing in this chapter shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirement respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan or under section 7411 or section 7412 of this title, such State or political subdivision may not adopt or enforce any emission standard or limitation which is less stringent than the standard or limitation under such plan or section.

42 U.S.C. Part 7421 – Consultation (CAA)

In carrying out the requirements of this chapter requiring applicable implementation plans to contain—

(1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of air pollution, or

...

... the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies...

16 U.S.C. Part 470 et seq. - National Historic Preservation Act (NHPA)

NHPA laws (16 U.S.C. Part 470 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=16+U.S.C.+470&granuleId=U.S.C.ODE-2012-title16-chap1A-subchapII-sec470&packageId=U.S.C.ODE-2012-title16>

NHPA rules and regulations (36 C.F.R. Part 800 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=36+C.F.R.+800&granuleId=C.F.R.-2013-title36-vol3-sec800-4&packageId=C.F.R.-2013-title36-vol3>

National Register of Historic Places (NRHP) rules and regulations (40 C.F.R. Part 60 et seq.) are available at U.S. Government Printing Office at:

<http://www.gpo.gov/fdsys/granule/C.F.R.-2012-title36-vol1/C.F.R.-2012-title36-vol1-sec60-4>

16 U.S.C. Part 470a - Historic preservation program (NHPA – Title I - Section 101)

(a) National Register of Historic Places; designation of properties as historic landmarks; properties deemed included; criteria; nomination of properties by States, local governments or individuals; regulations; review of threats to properties

(1)

(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. Notwithstanding section 1125(c) of title 15, buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as “National Historic Landmarks” and included on the National Register...

...

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b) of this section, shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) of this section for inclusion on the National Register...

(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National

Register only if such property is located in a State where there is no program approved under subsection (b) of this section...

...

(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn...

(7) The Secretary shall promulgate, or revise, regulations—

(A) ensuring that significant prehistoric and historic artifacts, and associated records ... are deposited in an institution with adequate long-term curatorial capabilities;

...

(C) certifying local governments, in accordance with subsection (c)(1) of this section and for the allocation of funds pursuant to section 470c(c) of this title.

(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to—

(A) determine the kinds of properties that may be threatened;

(B) ascertain the causes of the threats; and

(C) develop and submit to the President and Congress recommendations for appropriate action.

(b) Regulations for State Historic Preservation Programs; periodic evaluations and fiscal audits of State programs; administration of State programs; contracts and cooperative agreements with nonprofit or educational institutions and State Historic Preservation Officers; treatment of State programs as approved programs

(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs...

...

(2)

(A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of this subchapter, and in cooperation with the State

Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this subchapter.

(B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this subchapter, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this subchapter, until the program is consistent with this subchapter...

(C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.

(D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems...

...

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.

(3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to—

...

(E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

(F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

...

(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of this section;

(I) consult with appropriate Federal agencies in accordance with this subchapter on—

(i) Federal undertakings that may affect historic properties; and

(ii) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to such properties; and

...

(4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

...

(c) Certification of local governments by State Historic Preservation Officer; transfer of portion of grants; certification by Secretary; nomination of properties by local governments for inclusion on National Register

(1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this subchapter and provide for the transfer, in accordance with section 470c(c) of this title, of a portion of the grants received by the States under this subchapter, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government—

(A) enforces appropriate State or local legislation for the designation and protection of historic properties;

(B) has established an adequate and qualified historic preservation review commission by State or local legislation;

(C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b) of this section;

(D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and

(E) satisfactorily performs the responsibilities delegated to it under this subchapter.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

(2)

(A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission ... Within sixty days of notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the State Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to subsection (a) of this section. The State may expedite such process with the concurrence of the certified local government.

(B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action...

(3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provisions of section 470c(c) of this title, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.

...

16 U.S.C. Part 470f - Effect of Federal undertakings upon property listed in National Register; comment by Advisory Council on Historic Preservation (NHPA – Title I - Section 106)

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under part B of this subchapter a reasonable opportunity to comment with regard to such undertaking.

...

40 C.F.R. § 60.4 Criteria for evaluation (NHPA)

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and

(a) that are associated with events that have made a significant contribution to the broad patterns of our history; or

(b) that are associated with the lives of persons significant in our past; or

(c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) that have yielded, or may be likely to yield, information important in prehistory or history.

36 C.F.R. § 800.2 - Participants in the Section 106 process (NHPA)

(a) Agency official. It is the statutory obligation of the Federal agency to fulfill the requirements of section 106 and to ensure that an agency official with jurisdiction over an

undertaking takes legal and financial responsibility for section 106 compliance in accordance with subpart B of this part...

...

(4) Consultation. The agency official shall involve the consulting parties described in paragraph (c) of this section in findings and determinations made during the section 106 process. The agency official should plan consultations appropriate to the scale of the undertaking and the scope of Federal involvement and coordinated with other requirements of other statutes, as applicable, such as the National Environmental Policy Act, the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, the Archeological Resources Protection Act, and agency-specific legislation.

...

(c) Consulting parties. The following parties have consultative roles in the section 106 process.

(1) State historic preservation officer.

...

(2) Indian tribes and Native Hawaiian organizations.

(i) Consultation on tribal lands.

(A) Tribal historic preservation officer (THPO)...

...

(ii) Consultation on historic properties of significance to Indian tribes and Native Hawaiian organizations. Section 101(d)(6)(B) of the act requires the agency official to consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking. This requirement applies regardless of the location of the historic property. Such Indian tribe or Native Hawaiian organization shall be a consulting party.

...

...

(3) Representatives of local governments. A representative of a local government with jurisdiction over the area in which the effects of an undertaking may occur is entitled to participate as a consulting party. Under other provisions of Federal law, the local government may be authorized to act as the agency official for purposes of section 106.

(4) Applicants for Federal assistance, permits, licenses, and other approvals. An applicant for Federal assistance or for a Federal permit, license, or other approval is entitled to participate as a consulting party as defined in this part...

(5) Additional consulting parties. Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.

(d) The public—

(1) Nature of involvement. The views of the public are essential to informed Federal decision-making in the section 106 process. The agency official shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking.

(2) Providing notice and information. The agency official must, except where appropriate to protect confidentiality concerns of affected parties, provide the public with information about an undertaking and its effects on historic properties and seek public comment and input.

(3) Use of agency procedures. The agency official may use the agency's procedures for public involvement under the National Environmental Policy Act or other program requirements in lieu of public involvement requirements in subpart B of this part...

36 C.F.R. § 800.3 - Initiation of the section 106 process (NHPA)

...

(f) Identify other consulting parties. In consultation with the SHPO/THPO, the agency official shall identify any other parties entitled to be consulting parties and invite them to participate as such in the section 106 process. The agency official may invite others to participate as consulting parties as the section 106 process moves forward.

(1) Involving local governments and applicants. The agency official shall invite any local governments or applicants that are entitled to be consulting parties under §800.2(c).

...

(3) Requests to be consulting parties. The agency official shall consider all written requests of individuals and organizations to participate as consulting parties and, in consultation with the SHPO/THPO and any Indian tribe upon whose tribal lands an undertaking occurs or affects historic properties, determine which should be consulting parties.

Appendix IV. Federal Procedural Statutes and Regulations

42 U.S.C. Part 4321 et seq. - National Environmental Policy Act (NEPA)

NEPA laws (42 U.S.C. Part 4321 et seq.) are available at U.S. Government Printing Office at:
<http://www.gpo.gov/fdsys/search/pagedetails.action?st=42+U.S.C.+4321&granuleId=U.S.C.ODE-2010-title42-chap55-sec4321&packageId=U.S.C.ODE-2010-title42>

42 U.S.C. Part 4331 - Congressional declaration of national environmental policy (NEPA)

(a) The Congress ... declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

...

42 U.S.C. Part 4332 - Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts (NEPA)

The Congress authorizes and directs that, to the fullest extent possible:

...

(2) all agencies of the Federal Government shall—

...

(c) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

...

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

...

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the

public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes;

...

42 U.S.C. Part 4334 - Other statutory obligations of agencies (NEPA)

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency

...

(2) to coordinate or consult with any other Federal or State agency...

40 C.F.R. Parts 1500–1508 - Regulations for Implementing the Procedural Provisions of NEPA (CEQ)

“CEQ oversees Federal agency implementation of the environmental impact assessment process and acts as a referee when agencies disagree over the adequacy of such assessments. In enacting NEPA, Congress recognized that nearly all Federal activities affect the environment in some way, and mandated that before Federal agencies make decisions, they must consider the effects of their actions on the quality of the human environment. Under NEPA, CEQ works to balance environmental, economic, and social objectives in pursuit of NEPA’s goal of "productive harmony" between humans and the human environment. NEPA assigns CEQ the task of ensuring that Federal agencies meet their obligations under the Act” (<http://www.whitehouse.gov/administration/eop/ceq/about>).

CEQ Regulations (40 C.F.R. Parts 1500 - 1508) are available at:

<http://www.gpo.gov/fdsys/search/pagedetails.action?st=40+C.F.R.+1500&granuleId=C.F.R.-2013-title40-vol34-sec1500-1&packageId=C.F.R.-2013-title40-vol34>

40 C.F.R. Part 1500 - Purpose, Policy, and Mandate (CEQ)

40 C.F.R. § 1500.1 Purpose (CEQ)

...

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

...

40 C.F.R. § 1500.2 Policy (CEQ)

Federal agencies shall to the fullest extent possible:

...

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

...

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

40 C.F.R. Part 1501 - NEPA and Agency Planning (CEQ)

40 C.F.R. § 1501.2 Apply NEPA early in the process (CEQ)

...

(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

...

(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.

...

40 C.F.R. § 1501.5 Lead agencies (CEQ)

...

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§1506.2).

...

(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

...

40 C.F.R. § 1501.6 Cooperating agencies (CEQ)

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

...

(5) ... The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b)(3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council.

40 C.F.R. § 1501.7 Scoping (CEQ)

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§1508.22) in the Federal Register except as provided in §1507.3(e).

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under §1507.3(c). An agency may give notice in accordance with §1506.6.

40 C.F.R. Part 1502 - Environmental Impact Statement (CEQ)

40 C.F.R. § 1502.16 Environmental consequences (CEQ)

... The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in §1502.14. It shall include discussions of:

...

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See §1506.2(d).)

...

40 C.F.R. Part 1506 - Other Requirements of NEPA (CEQ)

40 C.F.R. § 1506.2 Elimination of duplication with State and local procedures (CEQ)

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in

conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

40 C.F.R. § 1506.6 Public involvement (CEQ)

Agencies shall:

(a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

...

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful...

40 C.F.R. Part 1508 - Terminology and Index (CEQ)

40 C.F.R. § 1508.5 Cooperating agency (CEQ)

Cooperating agency means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in §1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

40 C.F.R. § 1508.15 Jurisdiction by law (CEQ)

Jurisdiction by law means agency authority to approve, veto, or finance all or part of the proposal.

40 C.F.R. § 1508.26 Special expertise (CEQ)

Special expertise means statutory responsibility, agency mission, or related program experience.

CEQ Guidance Memo

“NEPA assigns CEQ the task of ensuring that Federal agencies meet their obligations under the Act” (<http://www.whitehouse.gov/administration/eop/ceq/about>).

CEQ Guidance Memos are available at: http://ceq.hss.doe.gov/ceq_regulations/guidance.html

CEQ Memorandum for Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act - Attachment 1: Factors for Determining Whether to Invite, Decline or End Cooperating Agency Status, 30 January 2002

MEMORANDUM FOR THE HEADS OF FEDERAL AGENCIES

FROM: JAMES CONNAUGHTON, Chair

SUBJECT: COOPERATING AGENCIES IN IMPLEMENTING THE PROCEDURAL REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT

The purpose of this Memorandum is to ensure that all Federal agencies are actively considering designation of Federal and non-federal cooperating agencies in the preparation of analyses and documentation required by the National Environmental Policy Act (NEPA)...

...

The CEQ regulations addressing cooperating agencies status (40 C.F.R. §§ 1501.6 & 1508.5) implement the NEPA mandate that Federal agencies responsible for preparing NEPA analyses and documentation do so "in cooperation with State and local governments" and other agencies with jurisdiction by law or special expertise (42 U.S.C. §§ 4331(a), 4332(2))...

...

Cooperating agency status is a major component of agency stakeholder involvement that neither enlarges nor diminishes the decision-making authority of any agency involved in the NEPA process. This memo does not expand requirements or responsibilities beyond those found in current laws and regulations, nor does it require an agency to provide financial assistance to a cooperating agency.

...

It is incumbent on Federal agency officials to identify as early as practicable in the environmental planning process those Federal, State, Tribal and local government agencies that have jurisdiction by law and special expertise with respect to all reasonable alternatives or significant environmental, social or economic impacts associated with a proposed action that requires NEPA analysis.

The Federal agency responsible for the NEPA analysis should determine whether such agencies are interested and appear capable of assuming the responsibilities of becoming a cooperating agency under 40 C.F.R. § 1501.6. Whenever invited Federal, State, Tribal and local agencies elect not to become cooperating agencies, they should still be considered for inclusion in interdisciplinary teams engaged in the NEPA process and on distribution lists for review and comment on the NEPA documents.

...

In order to assure that the NEPA process proceeds efficiently, agencies responsible for NEPA analysis are urged to set time limits, identify milestones, assign responsibilities for analysis and documentation, specify the scope and detail of the cooperating agency's contribution, and establish other appropriate ground-rules addressing issues such as availability of pre-decisional information. Agencies are encouraged in appropriate cases to consider documenting their expectations, roles and responsibilities (e.g., Memorandum of Agreement or correspondence). Establishing such a relationship neither creates a requirement nor constitutes a presumption that a lead agency provides financial assistance to a cooperating agency.

...

Once cooperating agency status has been extended and accepted, circumstances may arise when it is appropriate for either the lead or cooperating agency to consider ending cooperating agency status. This Memorandum provides factors to consider when deciding whether to invite, accept or end cooperating agency status...

...

ATTACHMENT 1

Factors for Determining Whether to Invite, Decline or End Cooperating Agency Status

1. Jurisdiction by law (40 C.F.R. § 1508.15)...

2. Special expertise (40 C.F.R. § 1508.26)...

3. Do the agencies understand what cooperating agency status means and can they legally enter into an agreement to be a cooperating agency?

4. Can the cooperating agency participate during scoping and/or throughout the preparation of the analysis and documentation as necessary and meet milestones established for completing the process?

5. Can the cooperating agency, in a timely manner, aid in:

...

- Identifying the proposed actions' relationship to the objectives of regional, State and local land use plans, policies and controls (1502.16(c))?
(40 C.F.R. §§ 1501.1(d) and 1501.7)

...

7. Can the cooperating agency provide resources to support scheduling and critical milestones such as:

- Personnel...

- Expertise...
- Funding...
- Models and databases...

...

8. Does the agency provide adequate lead-time for review and do the other agencies provide adequate time for review of documents, issues and analyses? Are ... cooperating agencies unable or unwilling to consistently participate in meetings in a timely fashion after adequate time for review of documents, issues and analyses?

9. Can the cooperating agency(s) accept the lead agency's final decision-making authority regarding the scope of the analysis, including authority to define the purpose and need for the proposed action?

10. Are the agency(s) able and willing to provide data and rationale underlying the analyses or assessment of alternatives?

11. Does the agency release predecisional information (including working drafts) in a manner that undermines or circumvents the agreement to work cooperatively before publishing draft or final analyses and documents?

12. Does the agency consistently misrepresent the process or the findings presented in the analysis and documentation?

...

Moreover, satisfying all the factors is not required and satisfying one may be sufficient. Each determination should be made on a case-by-case basis considering all relevant information and factors.

5 U.S.C. App. - Federal Advisory Committee Act (FACA)

“The Federal Advisory Committee Act became law in 1972 and is the legal foundation defining how federal advisory committees operate. The law has special emphasis on open meetings, chartering, public involvement, and reporting. The Federal Advisory Committee Act was enacted to ensure that advice by the various advisory committees formed over the years is objective and accessible to the public. The Act formalized a process for establishing, operating, overseeing, and terminating these advisory bodies and created the Committee Management Secretariat to monitor compliance with the Act. In 1976, Executive Order 12024 delegated to the administrator of GSA all responsibilities of the president for implementing the Federal Advisory Committee Act (FACA). Secretariat operations are directed at reporting to the president and Congress on the activities of at least 1000 federal advisory committees. Executive orders and congressional revisions have further refined the extension and the application of the Act in 1993, 1997, and 1998, and the extent and nature of the Secretariat's reporting of the activities of the committees” (http://www.gsa.gov/portal/content/104514?utm_source=OGP&utm_medium=print-radio&utm_term=faca&utm_campaign=shortcuts).

“In GSA’s view, agencies have broad latitude to consult with the public using many different approaches that are not subject to the Act. Public consultation formats that generally fall outside of the scope of the Act include public meetings, information exchange forums, meetings initiated with or by non-governmental organizations, Federal participation on groups that are not established or utilized by the Government, and certain work products generated by contractors as a result of consultation with the public” (41 C.F.R. Parts 101–6 and 102–3, Federal Advisory Committee Management; Final Rule, Federal Register / Vol. 66, No. 139 / Thursday, July 19, 2001 / Rules and Regulations. P 37730).

“Federal advisory committees can significantly strengthen the Federal agency’s collaboration processes. Establishing a federal advisory committee can be the best approach for achieving NEPA’s Section 101 objectives. It also ensures that advice provided to the Federal agency is developed through a structured, transparent, and inclusive public process. Agency managers and outside interested parties generally view the advice provided by federal advisory committees as highly credible due to the thorough vetting and selection process used to ensure balanced membership of the committees, formal opportunities for members of the public to provide written (and oral) public comment, and transparency of the meeting process. While FACA sets up requirements that federal advisory committees must follow, those requirements generally are similar to the best practices normally used in collaborative processes” (Collaboration Handbook – Appendix F: Federal Advisory Committee Act, Council on Environmental Quality (CEQ)).

The Federal Advisory Committee Management; Final Rule (41 C.F.R. Parts 101–6 and 102–3) is available at U.S. General Services Administration (GSA) at: http://www.gsa.gov/graphics/ogp/FACAFinalRule_R2E-cNZ_0Z5RDZ-i34K-pR.pdf

The Collaboration Handbook – Appendix F: Federal Advisory Committee Act is available at Council on Environmental Quality (CEQ) at: http://ceq.hss.doe.gov/publications/collaboration_handbook.html

41 C.F.R. Parts 101–6 and 102–3 - Federal Advisory Committee Management; Final Rule

41 C.F.R. § 102-3.30 What policies govern the use of advisory committees?

The policies to be followed by Federal departments and agencies in establishing and operating advisory committees consistent with the Act are as follows:

(a) Determination of need in the public interest. A discretionary advisory committee may be established only when it is essential to the conduct of agency business and when the information to be obtained is not already available through another advisory committee or source within the Federal Government. Reasons for deciding that an advisory committee is needed may include whether:

- (1) Advisory committee deliberations will result in the creation or elimination of (or change in) regulations, policies, or guidelines affecting agency business;
- (2) The advisory committee will make recommendations resulting in significant improvements in service or reductions in cost; or
- (3) The advisory committee's recommendations will provide an important additional perspective or viewpoint affecting agency operations.

(b) Termination. An advisory committee must be terminated when:

- (1) The stated objectives of the committee have been accomplished;
- (2) The subject matter or work of the committee has become obsolete by the passing of time or the assumption of the committee's functions by another entity;
- (3) The agency determines that the cost of operation is excessive in relation to the benefits accruing to the Federal Government;
- (4) In the case of a discretionary advisory committee, upon the expiration of a period not to exceed two years, unless renewed;
- (5) In the case of a non-discretionary advisory committee required by Presidential directive, upon the expiration of a period not to exceed two years, unless renewed by authority of the President; or
- (6) In the case of a non-discretionary advisory committee required by statute, upon the expiration of the time explicitly specified in the statute, or implied by operation of the statute.

(c) Balanced membership. An advisory committee must be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.

(d) Open meetings. Advisory committee meetings must be open to the public except where a closed or partially-closed meeting has been determined proper and consistent with the exemption(s) of the Government in the Sunshine Act, 5 U.S.C. 552b(c), as the basis for closure.

(e) Advisory functions only. The function of advisory committees is advisory only, unless specifically provided by statute or Presidential directive.

§ 102-3.40 What types of committees or groups are not covered by the Act and this part?

The following are examples of committees or groups that are not covered by the Act or this Federal Advisory Committee Management part:

...

(d) Committees not actually managed or controlled by the executive branch. Any committee or group created by non-Federal entities (such as a contractor or private organization), provided that these committees or groups are not actually managed or controlled by the executive branch;

(e) Groups assembled to provide individual advice. Any group that meets with a Federal official(s), including a public meeting, where advice is sought from the attendees on an individual basis and not from the group as a whole;

(f) Groups assembled to exchange facts or information. Any group that meets with a Federal official(s) for the purpose of exchanging facts or information;

...

(i) Local civic groups. Any local civic group whose primary function is that of rendering a public service with respect to a Federal program;

(j) Groups established to advise State or local officials. Any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies; and

Collaboration in NEPA - A Handbook for NEPA Practitioners (CEQ)

How Does FACA Affect Collaborative Approaches Used In The NEPA Process? (p.91)

In general, FACA applies to collaborative efforts when all of the following criteria are met:

1. A Federal agency establishes the group (that is, organizes or forms it) or utilizes an outside group by exerting “actual management or control” over the group;
2. The group includes one or more individuals who are not full-time or permanent part-time federal employees or elected officials of state, tribal, or local government or their designated employees with authority to speak on their behalf; and

3. The product of the collaboration is group or collective advice to the Federal agency. (Note that the advice is not required to be consensus advice for FACA to apply.)

Thus, for example, if an agency formed a group that included private interested parties to obtain collective advice on the alternatives that should be included in an EIS, the group would be subject to FACA. If, however, the agency did not seek group advice, but rather the individual advice of the participants, the assembled group would not be subject to FACA. For assistance in determining whether FACA applies to a particular group, contact your agency's FACA attorney.

How Does The NEPA Practitioner Ensure Compliance With FACA? (p. 92)

To help agency personnel, including NEPA project managers, meet all of the FACA requirements, the General Services Administration Federal Advisory Committee Management Secretariat issued a final rule that explains how to set up, manage and terminate a federal advisory committee. GSA also provides FACA training several times a year. In addition, most Federal agencies have developed guidance on FACA management that includes agency-specific processes. FACA requirements that apply to all agencies include the following:

1. Develop a charter and publish notice of the establishment of the committee. FACA § 9. A charter is a two- to three-page document that specifies the mission and general operational characteristics of the committee.
2. Balance the points of view represented by the membership of the committee in relation to the function the committee is to perform.
3. Announce meetings in the Federal Register in advance of the meeting.
4. Open the meetings to the public unless the agency head determines that the meeting can be closed and allow the public to send in or present comments.
5. Keep minutes of each meeting, make committee documents available to the public, and maintain the committee's records for the life of the committee.
6. Appoint a Designated Federal Officer (DFO) to manage the committee.

Are There Collaborative Problem-Solving Activities That Are Not Subject To FACA? (p. 92)

The following processes are not subject to FACA:

1. An agency seeks advice and recommendations from the participants on an individual basis and not from the group as a whole;
2. The group is composed exclusively of federal officials and elected officials from Federal, State, and local governments or Tribes (or their designated employees with authority to

speaking on their behalf) and the purpose of the group is to exchange views, information, or advice relating to issue(s) of intergovernmental responsibility and administration;

3. The group is formed or assembled by a non-federal entity (such as a non-federal government, a contractor or a private organization) provided that the group is not actually managed or controlled by the federal government;

4. The purpose of the group is to develop advice for non-federal entities (such as States or industry sectors);

5. The purpose of the group is to exchange information.

Pre-collaboration *situation assessments* (Section IV. B., page 14) can assist NEPA managers and staff by providing information to assist the agency in determining whether a collaborative approach should be used, and, if so, what collaboration approach is appropriate. If the selected collaboration effort would be subject to FACA, agency managers and staff should consult with the office in their agency responsible for FACA for guidance on setting-up and operating a federal advisory committee. If there are any questions as to whether FACA might apply, managers and staff should consult with the FACA attorney in their Office of General Counsel or Solicitor's Office.

Alternatives to FACA-Chartered Groups (p. 93)

Agencies should also consider potential alternatives to establishing a FACA committee in determining the most appropriate approach and procedural framework for convening a collaborative process, depending on the specific situation and desired outcomes.

- Agencies can establish a collaborative working group solely with other governmental entities, e.g., other Federal, State, and local government or Tribal employees working in their official capacities.
- One of the non-federal entities involved or interested in a NEPA process can take the lead in organizing and setting up a collaborative group. This could be a trusted stakeholder group or an independent, impartial organization or convening group. FACA only applies to federal agencies. If a Tribe, State, county, or local agency or public interest group puts a collaborative group together, controls membership, sets the agenda, funds the work of the group, and sets up meetings, the Federal agency can participate without violating FACA, providing the federal members do not manage or control the group.
- In some situations, the Federal agency can form a working group as a subcommittee of an existing committee, such as a Resource Advisory Committee (RAC) or other FACA-chartered advisory committee. Make sure the working group always reports to the RAC or chartered committee and not directly to the Federal agency. In most Federal agencies, subcommittees that advise a parent committee rather than a Federal agency are not subject to the FACA openness requirements.

- Sometimes group advice is not the desired purpose. It may be that the Federal agency only wants individual advice from parties. Or sometimes a Federal agency needs to provide information to educate the community about the agency's programs and decisions. In this case, the best approach may be to hold town hall-style public meetings with open public participation and opportunities to respond to questions. Such meetings do not violate FACA as long as the Federal agency is not seeking group advice, but rather is sharing information or seeking advice from individuals.

5 U.S.C. Part 601 et seq. - Regulatory Flexibility Act (RFA)

“The purpose of the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), is to fit regulatory requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation. The RFA requires that agencies determine, to the extent feasible, the rule's economic impact on small entities, explore regulatory options for reducing any significant economic impact on a substantial number of such entities, and explain their ultimate choice of regulatory approach. The Agency refers to the RFA as amended by SBREFA simply as the RFA” (<http://www2.epa.gov/laws-regulations/summary-regulatory-flexibility-act-amended-small-business-regulatory-enforcement>).

5 U.S.C. Part 603 - Initial regulatory flexibility analysis

(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule ... the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities...

...

(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

...

5 U.S.C. Part 609 - Procedures for gathering comments

(a) When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule...

Appendix V. Arizona Counties Natural Resources Planning Authority

Comprehensive Plan

The Arizona counties Comprehensive Plan statutes (A.R.S. § 11-801 et seq.) are available at Arizona State Legislature at: <http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=11>

A.R.S. § 11-804. Comprehensive Plan; Contents

A. The commission shall formulate and the board of supervisors shall adopt or readopt a long-term comprehensive plan for the development of the area of jurisdiction in the manner prescribed by this article. The comprehensive plan, with the accompanying maps, plats, charts and descriptive matter, shall show the commission's recommendations for the development of the area of jurisdiction. The comprehensive plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the area of jurisdiction pursuant to the present and future needs of the county. The comprehensive plan shall be developed so as to conserve the natural resources of the county, to ensure efficient expenditure of public monies and to promote the health, safety, convenience and general welfare of the public. The comprehensive plan may include studies and recommendations relative to the location, character and extent of highways, railroads, bus and other transportation routes, bicycle facilities, bridges, public buildings, public services, schools, parks, open space, housing quality, variety and affordability, parkways, hiking and riding trails, airports, forests, wildlife areas, dams, projects affecting conservation of natural resources, air quality, water quality and floodplain zoning. In the preparation of the comprehensive plan, the commission shall make surveys and studies of the present conditions and prospective future growth of the area of the jurisdiction...

B. In addition to the other matters that are required or authorized under this section and this article, for counties with a population of more than one hundred twenty-five thousand persons, the comprehensive plan shall include, and for other counties the comprehensive plan may include:

1. Planning for land use that designates the proposed general distribution and location and extent of uses of the land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space and other categories of public and private uses of land appropriate to the county...
2. Planning for circulation consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, bicycle routes and any other modes of transportation as may be appropriate, all correlated with the land use plan under paragraph 1 of this subsection.
3. Planning for water resources...
4. Planning for energy use...

C. In addition to the other matters that are required or authorized under this section and this article, for counties with a population of more than two hundred thousand persons...

1. Planning for open space acquisition and preservation...

2. Planning for growth areas, specifically identifying those areas, if any, that are particularly suitable for planned multimodal transportation and infrastructure expansion and improvements designed to support a planned concentration of a variety of uses, such as residential, office, commercial, tourism and industrial uses...

3. An environmental planning element that contains analyses, policies and strategies to address anticipated effects, if any, of plan elements on air quality, water quality and natural resources associated with proposed development under the comprehensive plan. The policies and strategies to be developed under this element shall be designed to have countywide applicability and shall not require the production of an additional environmental impact statement or similar analysis beyond the requirements of state and federal law.

4. A cost of development element...

...

Comprehensive Plan Update Process

Additionally, the statutorily mandated process to amend the Arizona counties Comprehensive Plans make them virtually unable to adapt in real-time to the emerging federal Proposed Actions, and the comparatively short lead-time to provide comments on NEPA documents.

A.R.S. § 11-805. Comprehensive Plan Adoption; Notice; Hearing; Amendment; Expiration; Readoption

A. The board shall adopt a comprehensive plan and subsequently amend or extend the adopted plan as provided by this article. On adoption or re-adoption, the plan, or any part of the plan, shall be the official guide for the development of the area of jurisdiction. Any change, amendment, extension or addition of the comprehensive plan may be made only pursuant to this chapter.

B. The board of supervisors shall:

1. Adopt written procedures to provide effective, early and continuous public participation in the development and major amendment of the comprehensive plan from all geographic, ethnic and economic areas of the county...

2. Consult with, advise and provide an opportunity for official comment by public officials and agencies, municipalities, school districts, associations of governments, public land management agencies, the military airport if the county's area of jurisdiction includes territory in the vicinity of a military airport or ancillary military facility as defined in section 28-8461, other appropriate government jurisdictions, public utility companies, civic, educational, professional and other

organizations, property owners and citizens generally to secure the maximum coordination of plans and to indicate properly located sites for all public purposes on the plan.

C. The commission shall confer with the state land department and the governing bodies and planning commissions of cities and towns in the county...

D. The commission shall coordinate the production of the comprehensive plan with the creation of the conceptual state land use plans...

...

F. At least sixty days before the comprehensive plan or an element or major amendment of a comprehensive plan is noticed pursuant to subsection G of this section, the commission shall transmit the proposal to the board of supervisors and submit a copy for review and further comment to:

1. Each municipality in the county.
2. Each other county that is contiguous to the county.
3. The regional planning agency in the county.
4. The Arizona commerce authority or any other state agency that is subsequently designated as the general planning agency for this state.
5. The department of water resources for review and comment on the water resources element, if a water resources element is required.
- ...
8. Any person or entity that requests in writing to receive a review copy of the proposal.

G. After considering any recommendations from the review required under subsection F of this section, the commission shall hold at least one public hearing. Notice of the time and place of a hearing and availability of studies and summaries related to the hearing shall be given at least fifteen and not more than thirty calendar days before the hearing by:

1. Publication at least once in a newspaper of general circulation in the county seat.
2. Publication at least once in a newspaper of general circulation in the area to be affected, or adjacent to the area to be affected, if the area affected is other than the county seat.

....

H. After the commission recommends the comprehensive plan or any section of the plan, the plan shall be submitted to the board of supervisors for its consideration and official action.

I. Before the adoption, amendment or extension of the plan, the board shall hold at least one public hearing on the plan. After the board considers the commission's recommendation and any recommendations from the review required under subsection F of this section, the board shall hold at least one public hearing at which residents of the county shall be heard concerning the matters contained in the plan. At least fifteen days' notice of the hearing shall be given by one publication in

a newspaper of general circulation in the county seat. The board shall consider protests and objections to the plan and may change or alter any portion of the comprehensive plan...

J. ... The adoption or re-adoption of the comprehensive plan, and any major amendment to the comprehensive plan, shall not be enacted as an emergency measure and is subject to referendum as provided by article IV, part 1, section 1, subsection (8), Constitution of Arizona, and title 19, chapter 1, article 4...

...

Local Coordination with the Federal Government

Senate Engrossed
State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1398

AN ACT

Amending Title 9, Chapter 4, Article 8, Arizona Revised Statutes, by Adding Section 9-500.29; Amending Title 11, Chapter 2, Article 4, Arizona Revised Statutes, by Adding Section 11-269.09; Amending Title 48, Chapter 1, Arizona Revised Statutes, by Adding Article 12;
Relating To Local Coordination With
The Federal Government.

S.B. 1398

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
- 3 amended by adding section 9-500.29, to read:
- 4 9-500.29. Federal and state regulations; local coordination;
- 5 standing; definitions
- 6 A. IF A CITY OR TOWN HAS LAWS, REGULATIONS, PLANS OR POLICIES THAT ARE
- 7 LESS RESTRICTIVE THAN A FEDERAL OR STATE REGULATION, RULE, PLAN OR POLICY,
- 8 THE CITY OR TOWN SHALL DEMAND BY ANY LAWFUL MEANS THAT THE FEDERAL OR STATE
- 9 GOVERNMENT COORDINATE WITH THE CITY OR TOWN BEFORE THE FEDERAL OR STATE
- 10 GOVERNMENT IMPLEMENTS, ENFORCES, EXPANDS OR EXTENDS THE FEDERAL OR STATE
- 11 REGULATION, RULE, PLAN OR POLICY WITHIN THE CITY'S OR TOWN'S JURISDICTIONAL
- 12 BOUNDARIES. THIS SUBSECTION IS MANDATORY UNLESS THE CITY OR TOWN
- 13 SPECIFICALLY VOTES TO NOT DEMAND COORDINATION.
- 14 B. IF THE FEDERAL OR STATE GOVERNMENT FAILS TO COORDINATE IN GOOD
- 15 FAITH WITH THE CITY OR TOWN, THE CITY OR TOWN SHALL HOLD PUBLIC HEARINGS,
- 16 CONSIDER THE EVIDENCE AND VOTE ON WHETHER TO AUTHORIZE LITIGATION TO ENFORCE
- 17 THE CITY'S OR TOWN'S COORDINATION RIGHTS.

18 C. IF A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE SERVES EACH
19 MEMBER OF THE CITY'S OR TOWN'S GOVERNING BODY WITH A WRITTEN DEMAND THAT THE
20 CITY OR TOWN COMPLY WITH THIS SECTION AND, WITHIN SIXTY DAYS AFTER SERVICE OF
21 THE WRITTEN DEMAND, THE CITY OR TOWN GOVERNING BODY FAILS TO COMPLY WITH THIS
22 SECTION IN A MANNER THAT CAUSES INJURY TO THE PERSON, THE PERSON MAY SUBMIT A
23 WRITTEN DEMAND FOR A RESPONSE. THE WRITTEN DEMAND MUST SPECIFY THE CITY OR
24 TOWN LAW, REGULATION, PLAN OR POLICY WITH WHICH THE FEDERAL OR STATE
25 GOVERNMENT FAILED TO COORDINATE. WITHIN THIRTY DAYS AFTER RECEIVING THE
26 WRITTEN DEMAND FOR A RESPONSE, THE CITY OR TOWN SHALL HOLD A PUBLIC HEARING
27 TO PRESENT INFORMATION ON THE DECISION NOT TO DEMAND COORDINATION.

28 D. FOR THE PURPOSES OF THIS SECTION:

29 1. "COORDINATE" MEANS THE ACTION NECESSARY TO ACHIEVE COORDINATION.

30 2. "COORDINATION" MEANS THE PROCESS BY WHICH THE FEDERAL OR STATE
31 GOVERNMENT SEEKS IN GOOD FAITH TO REACH CONSISTENCY BETWEEN A FEDERAL OR
32 STATE REGULATION, RULE, PLAN OR POLICY AND A CITY OR TOWN LAW, REGULATION,
33 PLAN OR POLICY THAT IS LESS RESTRICTIVE THAN THE FEDERAL OR STATE REGULATION,
34 RULE, PLAN OR POLICY.

35 3. "LESS RESTRICTIVE" MEANS A CITY OR TOWN LAW, REGULATION, PLAN OR
36 POLICY IMPOSES OR WOULD IMPOSE LESS OF A BURDEN ON THE EXERCISE OF RIGHTS,
37 PRIVILEGES OR IMMUNITIES ENJOYED BY INDIVIDUALS, ORGANIZATIONS AND BUSINESSES
38 WITHIN THE CITY'S OR TOWN'S JURISDICTIONAL BOUNDARIES.

39 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
40 amended by adding section 11-269.09, to read:

41 11-269.09. Federal and state regulations; local coordination;
42 standing; definitions

43 A. IF A COUNTY HAS LAWS, REGULATIONS, PLANS OR POLICIES THAT ARE LESS
44 RESTRICTIVE THAN A FEDERAL OR STATE REGULATION, RULE, PLAN OR POLICY, THE
45 COUNTY SHALL DEMAND BY ANY LAWFUL MEANS THAT THE FEDERAL OR STATE GOVERNMENT

S.B .1398

- 2 -

1 COORDINATE WITH THE COUNTY BEFORE THE FEDERAL OR STATE GOVERNMENT IMPLEMENTS,
2 ENFORCES, EXPANDS OR EXTENDS THE FEDERAL REGULATION, RULE, PLAN OR POLICY
3 WITHIN THE COUNTY'S JURISDICTIONAL BOUNDARIES. THIS SUBSECTION IS MANDATORY
4 UNLESS THE COUNTY SPECIFICALLY VOTES TO NOT DEMAND COORDINATION.

5 B. IF THE FEDERAL OR STATE GOVERNMENT FAILS TO COORDINATE IN GOOD
6 FAITH WITH THE COUNTY, THE COUNTY SHALL HOLD PUBLIC HEARINGS, CONSIDER THE
7 EVIDENCE AND VOTE ON WHETHER TO AUTHORIZE LITIGATION TO ENFORCE THE COUNTY'S
8 COORDINATION RIGHTS.

9 C. IF A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE SERVES EACH
10 MEMBER OF THE BOARD OF SUPERVISORS WITH A WRITTEN DEMAND THAT THE COUNTY
11 COMPLY WITH THIS SECTION AND, WITHIN SIXTY DAYS AFTER SERVICE OF THE WRITTEN
12 DEMAND, THE BOARD OF SUPERVISORS FAILS TO COMPLY WITH THIS SECTION IN A
13 MANNER THAT CAUSES INJURY TO THE PERSON, THE PERSON MAY SUBMIT A WRITTEN
14 DEMAND FOR A RESPONSE. THE WRITTEN DEMAND MUST SPECIFY THE COUNTY LAW,
15 REGULATION, PLAN OR POLICY WITH WHICH THE FEDERAL OR STATE GOVERNMENT FAILED
16 TO COORDINATE. WITHIN THIRTY DAYS AFTER RECEIVING THE WRITTEN DEMAND FOR A
17 RESPONSE, THE COUNTY SHALL HOLD A PUBLIC HEARING TO PRESENT INFORMATION ON

18 THE DECISION NOT TO DEMAND COORDINATION.

19 D. FOR THE PURPOSES OF THIS SECTION:

20 1. "COORDINATE" MEANS THE ACTION NECESSARY TO ACHIEVE COORDINATION.

21 2. "COORDINATION" MEANS THE PROCESS BY WHICH THE FEDERAL OR STATE
22 GOVERNMENT SEEKS IN GOOD FAITH TO REACH CONSISTENCY BETWEEN A FEDERAL OR
23 STATE REGULATION, RULE, PLAN OR POLICY AND A COUNTY LAW, REGULATION, PLAN OR
24 POLICY THAT IS LESS RESTRICTIVE THAN THE FEDERAL OR STATE REGULATION, RULE,
25 PLAN OR POLICY.

26 3. "LESS RESTRICTIVE" MEANS A COUNTY LAW, REGULATION, PLAN OR POLICY
27 IMPOSES OR WOULD IMPOSE LESS OF A BURDEN ON THE EXERCISE OF RIGHTS,
28 PRIVILEGES OR IMMUNITIES ENJOYED BY INDIVIDUALS, ORGANIZATIONS AND BUSINESSES
29 WITHIN THE COUNTY'S JURISDICTIONAL BOUNDARIES.

30 Sec. 3. Title 48, chapter 1, Arizona Revised Statutes, is amended by
31 adding article 12, to read:

32 ARTICLE 12. LOCAL COORDINATION WITH
33 THE FEDERAL AND STATE GOVERNMENT

34 48-281. Federal and state regulations; local coordination;
35 standing; definitions

36 A. IF A DISTRICT THAT IS FORMED UNDER THIS TITLE AND THAT HAS LAWS,
37 REGULATIONS, PLANS OR POLICIES THAT ARE LESS RESTRICTIVE THAN A FEDERAL OR
38 STATE REGULATION, RULE, PLAN OR POLICY, THE DISTRICT SHALL DEMAND BY ANY
39 LAWFUL MEANS THAT THE FEDERAL OR STATE GOVERNMENT COORDINATE WITH THE
40 DISTRICT BEFORE THE FEDERAL OR STATE GOVERNMENT IMPLEMENTS, ENFORCES, EXPANDS
41 OR EXTENDS THE FEDERAL OR STATE REGULATION, RULE, PLAN OR POLICY WITHIN THE
42 DISTRICT'S JURISDICTIONAL BOUNDARIES. THIS SUBSECTION IS MANDATORY UNLESS
43 THE DISTRICT SPECIFICALLY VOTES TO NOT DEMAND COORDINATION.

S.B. 1398

- 3 -

1 B. IF THE FEDERAL OR STATE GOVERNMENT FAILS TO COORDINATE IN GOOD
2 FAITH WITH THE DISTRICT, THE DISTRICT SHALL HOLD PUBLIC HEARINGS, CONSIDER
3 THE EVIDENCE AND VOTE ON WHETHER TO AUTHORIZE LITIGATION TO ENFORCE THE
4 DISTRICT'S COORDINATION RIGHTS.

5 C. IF A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE SERVES EACH
6 MEMBER OF THE DISTRICT'S GOVERNING BODY WITH A WRITTEN DEMAND THAT THE
7 DISTRICT COMPLY WITH THIS SECTION AND, WITHIN SIXTY DAYS AFTER SERVICE OF THE
8 WRITTEN DEMAND, THE DISTRICT GOVERNING BODY FAILS TO COMPLY WITH THIS SECTION
9 IN A MANNER THAT CAUSES INJURY TO THE PERSON, THE PERSON MAY SUBMIT A WRITTEN
10 DEMAND FOR A RESPONSE. THE WRITTEN DEMAND MUST SPECIFY THE DISTRICT LAW,
11 REGULATION, PLAN OR POLICY WITH WHICH THE FEDERAL OR STATE GOVERNMENT FAILED
12 TO COORDINATE. WITHIN THIRTY DAYS AFTER RECEIVING THE WRITTEN DEMAND FOR A
13 RESPONSE, THE DISTRICT SHALL HOLD A PUBLIC HEARING TO PRESENT INFORMATION ON
14 THE DECISION NOT TO DEMAND COORDINATION.

15 D. FOR THE PURPOSES OF THIS SECTION:

16 1. "COORDINATE" MEANS THE ACTION NECESSARY TO ACHIEVE COORDINATION.

17 2. "COORDINATION" MEANS THE PROCESS BY WHICH THE FEDERAL OR STATE
18 GOVERNMENT SEEKS IN GOOD FAITH TO REACH CONSISTENCY BETWEEN A FEDERAL OR
19 STATE REGULATION, RULE, PLAN OR POLICY AND A DISTRICT LAW, REGULATION, PLAN

20 OR POLICY THAT IS LESS RESTRICTIVE THAN THE FEDERAL OR STATE REGULATION,
21 RULE, PLAN OR POLICY.
22 3. "LESS RESTRICTIVE" MEANS A DISTRICT LAW, REGULATION, PLAN OR POLICY
23 IMPOSES OR WOULD IMPOSE LESS OF A BURDEN ON THE EXERCISE OF RIGHTS,
24 PRIVILEGES OR IMMUNITIES ENJOYED BY INDIVIDUALS, ORGANIZATIONS AND BUSINESSES
25 WITHIN THE DISTRICT'S JURISDICTIONAL BOUNDARIES.

Appendix VI. Counties Natural Resources Management Gap Analyses

Some elements of natural resources management objectives do exist within the five Counties that participated in the study. For example:

- Apache County Land Use & Resources Plan.
(<http://www.co.apache.az.us/>)
- Gila County Land Use and Resource Policy Plan.
(http://www.gilaCountyaz.gov/documents/docs/CommunityDevelopment/Planning/2010_LURP_P_FINAL_8_11_10.pdf)
- Greenlee County Land Use and Resource Policy Plan.
(<http://www.co.greenlee.az.us/pz/plans/Land%20Use%20and%20Resource%20Policy%20Plan.pdf>)
- Gila, Graham, Greenlee and Navajo Counties May 2013 County comments on the *Programmatic Draft Environmental Impact Statement for the Apache-Sitgreaves National Forests Land Management Plan* outline seven sets of natural resources management objectives:
 - 1) Rangelands Resources Management Objectives:
Rangelands Resources Management Objectives address issues such as, but not limited to, grazing availability, suitability, sustainability; ecological, economic and social carrying capacity; access; contribution to rural economic development; contribution to local Western custom and culture; etc.
 - 2) Forest Products Resources Management Objectives:
Forest Products Management Resources Objectives address issues such as, but not limited to, logging availability, suitability, sustainability, productivity, access; contribution to rural economic development; contribution to rural Western custom and culture; etc.
 - 3) Mineral and Energy Resources Management Objectives:
Mineral And Energy Resources Management Objectives address issues such as, but not limited to, the availability, suitability, sustainability, productivity, access, contribution to rural economic development of solid, liquid or gaseous mineral resources; as well as solar, wind, hydropower, geothermal and other natural renewable energy resources; etc.
 - 4) Motorized Travel and Recreation Management Objectives:
Motorized Travel And Recreation Management Objectives address issues such as, but not limited to, motorized access; motorized travel; motorized big game retrieval; motorized dispersed camping; motorized gathering of firewood; motorized access to dispersed fishing; motorized recreation opportunities; inventoried roadless areas; wilderness area designation; motorized access to grazing and logging opportunities; contribution of motorized access, recreation and travel to rural economic development; contribution to local Western custom and culture; etc.

- 5) **Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives:**
Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives address issues such as, but not limited to, protection of County residents and visitors; protections of collective and individual real properties; protection of transportation, energy and water collection and distribution infrastructures; ecological restoration of forested ecosystems; local scale restoration projects; landscape scale restoration projects; social license required for the non-conflictual and non-litigious implementation of restoration efforts (such as the one requested in public Statements by former USFS Southwestern Regional Forester Corbin Newman for the Four Forest Restoration Initiative); industry development required to implement and fund restoration efforts through economically viable utilization of the wood products; long term guarantees of wood supply necessary to attract private investments in a small diameter utilization infrastructure in northeastern Arizona; etc.
- 6) **Watersheds Restoration Objectives:**
Watershed Restoration Objectives address issues such as, but not limited to, ecological restoration of watersheds; protection and development of water collection and distribution infrastructures; monetization of watershed ecosystem services; downstream consumption contribution to upstream production investments and maintenance; interactions between watershed functions and multiple use functions; etc.
- 7) **Management Areas Designation Objectives:**
Management Areas Designation Objectives address issues such as, but not limited to, nomination, designation, management, effect on socioeconomic resources, impacts on the other County objectives, etc. of inventoried roadless areas (which are technically not management areas per se but an administrative designation), wilderness areas, primitive areas, research natural areas, wildlife quiet areas, wild and scenic rivers, etc.

However, these elements are mostly policy categories with little or no specific objectives, policies or plans and they do not meet the specificity requirement for inconsistencies reconciliation or planning conflict reduction.

Using the Natural Resources Management Template and the Comprehensive Set of Natural Resources Management Issues, the study workgroup designed a Gap Analysis instrument and each of the five participating Counties conducted its own Natural Resources Management Gap Analysis.

Apache County Gap Analysis

Apache County Overall Self-Assessment

“The County only partially meets the criteria for effective coordination, cooperation and inconsistencies reconciliation. Overall the Apache County Land Use & Resources Plan could use better cross-indexing and compilation of other Apache County actions (resolutions, ordinances, Community Wildfire Protection Plan, Comprehensive Plan), some minor updating on agency policy and Congressional actions along with Presidential Executive Order’s. Once completed, this would allow better preservation of institutional knowledge for future staff and public engagement” (Doyel Shamley, Natural Resources Consultant, Apache County).

Apache County Gap Analysis Table

Compiled by Doyel Shamley, Natural Resources Consultant, Apache County.

Resource Class	Resource Category	Existing Board Action	Description	Coordination value Inconsistencies reconciliation Applicability
Forested Ecosystems	Ponderosa Pine Forests	County Comments	USFS-Forest Plan Process.	Good – Land Use & Resources Plan contains specifics on data quality, consistency, mitigation measures, inter-governmental relations status, and requirement for various state and federal agencies to coordinate planning with local government, socio-economic issues and impacts. Specific topical commentary and further County Board actions (resolutions, policy statements, Comprehensive Plan, Ordinances) support, detail and/or expand County policy based on new developments, changes in laws, new data and science and agency actions impacting areas of concern. See Land Use & Resources Plan Binder.
		MOU	With USFS, acknowledging Apache County as a Cooperating Agency on all plans.	MOU with USFS – Was a great tool, but forced into expired document by a Forest Supervisor’s non-renewal. Should definitely be revived since there is renewed cooperative interest in current Forest Supervisors Office.

		Land Use & Resources Plan	Goals, Objectives and need to protect socio-economic, cultural and historic needs.	The Official and approved Apache County Land Use and Resource Plan (Land Use & Resources Plan) includes sections, details, public hearing input, statute, law, authority, and guidelines for most “Headers” involved in this study. Further details, deviations, areas lacking in thoroughness and suggested actions for improvement, are examined in more detail in this chart and the Executive Summary. The Community Wildfire Protection Plan also delves into these areas, but suffers from needed updating. It is recommended that both the Land Use & Resources Plan, which is currently undergoing a paltry draft revision and the Community Wildfire Protection Plan, which is currently slated for revision by end of FY2014, be given dedicated funding and time allowances to be finalized in a more current form.
		Apache County Community Wildfire Protection Plan	Detailing plans, goals and objectives of Wild Fire Hazardous Fuels mitigation, locations, strategies and desired outcomes.	Currently undergoing revision, this sets the tone for many of the counties policies concerning Thinning Regimes, Wild-land Urban Interface (WUI) areas, priority treatment goals and objectives. Although quite comprehensive at the time of passage, the Community Wildfire Protection Plan does not reflect current conditions after catastrophic events (Wallow Fire and post-fire flooding) nor accurately reflect numerous goals met and set new goals based on current data.
		County Comprehensive Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of COMPREHENSIVE PLAN is needed to better support topic and the Land Use & Resources Plan.
	Mixed Conifers Forests	Land Use & Resources Plan		Good – See Land Use & Resources Plan Binder
		County Comments to Proposed Federal Actions		Good – See Land Use & Resources Plan Binder
		AC-Community Wildfire Protection Plan		Good – Currently undergoing revision to document goals met and landscape changes after catastrophic events.
	Open woodlands	AC-Community Wildfire		Good – Currently undergoing necessary revision to document goals met and landscape changes after catastrophic events

		Protection Plan		
Rangelands and Farmlands	Grazing	Land Use & Resources Plan		Good – See Land Use & Resources Plan Binder
		County Comments of federal agency proposals		Good – See Land Use & Resources Plan Binder – most specifically dealing with proposed changes in USFS-Forest Plan and proposed changes to permittee and concessionaire appeals policy, stubble, forage and riparian areas.
	Agricultural	Land Use & Resources Plan		Good – See Land Use & Resources Plan Binder
		County Assessors office policies on agricultural land use		Good – see County Assessors Office documentation on agricultural land-use policies. Could however be fortified through better cross-reference and cross-examination with Land Use & Resources Plan and Comprehensive Plan
Water and Watersheds	Watershed functions	Land Use & Resources Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed.
		Comprehensive Plan		N/A – Needs to have policies, plans and objectives clearly defined and integrated into Comprehensive Plan
		County Comments	County Comments on USFS and BLM proposals for Forest Plan changes	Good – see Land Use & Resources Plan Binder
	Water Production	Comprehensive Plan		Minimal – Although socio-economic importance and goals are provided, a clear set of plans and objectives is lacking.
		Land Use & Resources Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed.
		County - Comments		Good – see Land Use & Resources Plan Binder – addresses specifics on federal agency attempts to expand water claims, expansion of Clean Water Act (CWA) authority.
	Water quality	Comprehensive Plan		Minimal – Although socio-economic importance and goals are provided, a clear set of plans and objectives is lacking. Needs clearer objectives on how to provide safe drinking water to expanded population.

		Land Use & Resources Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed. Needs clearer objectives on how land-use policies can aid in the development of expanded safe drinking water supplies to residents and commercial users of the county.
	Irrigation	Land Use & Resources Plan		Good – see Land Use & Resources Plan Binder – needs improvement however with current data available, although it does stress the cultural, historic and socio-economic importance of Irrigation and the counties responsibilities to protect Irrigation Users.
		County comments and resolutions		Good – see Land Use & Resources Plan Binder – includes formation of new water districts to better serve users and cooperative maintenance agreements and cost-sharing
	Flood plains	Land Use & Resources Plan		Minimal – Flood plain planning is not cross-referenced with Comprehensive Plan
		Comprehensive Plan		Good – See Land Use & Resources Plan Binder
		County Engineering		Good – See Apache County Engineering and Planning and Zoning goals, policies, objectives and mitigation measures. Especially proactive measures in place resulting from lessons learned after the Wallow Fire.
	Minerals	Solid	Land Use & Resources Plan	Minimal – Although mining as an historic part of our economy and culture is indicated, there is a lack of concise goals and objectives. Should better highlight how local government will protect and encourage these industries
			Potash support Resolution	Good – See Land Use & Resources Plan
			Comprehensive Plan	Minimal – Although mining as an historic part of our economy and culture is indicated, there is a lack of concise goals and objectives.
		Gaseous	Land Use & Resources Plan	Minimal – Although mining as an historic part of our economy and culture is indicated, there is a lack of concise goals and objectives. Should better highlight how local government will protect and encourage these industries.
			CO2 resolutions	Good – See Land Use & Resources Plan Binder
		Liquid	Not addressed – should be defined, outlined and policy generated based on evidence from counties who have	

		integrated a conservation strategy. At the minimum, this would determine if there is any need for policy development on this topic, which there may not be based on current mineral assay within the county excepting however having a preemptive strategy in-line with the other types of minerals in light of constantly improving prediction, discovery and extraction technologies.		
Renewable Energy	Solar	Not addressed in Land Use & Resources Plan – should be defined, outlined and policy generated based on evidence from counties who have integrated a conservation strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County.		
	Wind			
Public Lands	Public Land Access	Land Use & Resources Plan		Good – Has detailed needs, objectives, goals to preserve cultural, historic and economic multiple-use management. Needs better clarity on long-term goals and objectives.
		County Commentary on USFS and BLM Travel Management Planning (Proposed Rulemaking)		Good – see Land Use & Resources Plan Binder
		County Resolution		Good – See Land Use & Resources Plan Binder
	Motorized Travel	Land Use & Resources Plan		Good – See Land Use & Resources Plan Binder
		Commentary on USFS and BLM Travel Management Planning (Proposed Rulemaking)		Good – see Land Use & Resources Plan Binder
		County Resolutions		Good – See Land Use & Resources Plan Binder
Infrastructures	Transportation	Land Use & Resources Plan		Minimal – Land Use & Resources Plan needs additional planning, goals and objectives added and cross-referenced with other county actions to

				fortify it's documentation
		County Resolutions		Good – See Land Use & Resources Plan Binder – county commentary and actions on transportation networks, highway weight limits and emergency actions to keep forest products industries alive during strife from outside entities.
		Comprehensive Plan		Good – See Land Use & Resources Plan Binder – needs clarification and updating to better represent needs, goals and objectives with changes in tax-base and changes from catastrophic events, but has excellent transportation planning components and goals.
	Utilities Corridors	Land Use & Resources Plan		Minimal – Land Use & Resources Plan needs additional planning, goals and objectives added and cross-referenced with other county actions.
		Greens Peak Repeater site support (vote and monetarily)		Minimal – Land Use & Resources Plan needs additional planning, goals and objectives added and cross-referenced with other county actions.
		Nutrioso Repeater Site Support (vote and monetarily)		Minimal – Land Use & Resources Plan needs additional planning, goals and objectives added and cross-referenced with other county actions.
	Cellular	Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a conservation strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County. Specific preservation/protection of sites from catastrophic events (wildfire, flooding, extraordinary snowfall, monsoon, wind, etc.) must be added to protect our communications infrastructure. These towers are typically arrayed with emergency services communication deployments (police, Sheriff, ambulance, fire and volunteer radio groups) and are a critical health, safety and welfare issue.		
Recreation	Consumptive	Land Use & Resources Plan	Broad based goals of cultural and historic uses	Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed.
		County Commentary on Federal Agency Proposals	Specific commentary on USFS and BLM planning proposals	Good – See Land Use & Resources Plan

	Non Consumptive	Land Use & Resources Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed.
		County Commentary on Federal Agency Proposals		Good – See Land Use & Resources Plan Binder
Habitats	Old growth	Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County through public participation and comparative data from other counties.		
	Riparian	Land Use & Resources Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed and better cross-reference with the Comprehensive Plan
		AC-Comments		Good – see Land Use & Resources Plan Binder – Comments on watersheds and Riparian areas concerning agency proposals
	Desert Mesa	Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County through public participation and comparative data from other counties.		
	Conservation Banking	Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County.		
Forest Products	Industry support	Land Use & Resources Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed to clarify more specific goals and objectives
		Various support letters for local industries		Good – See Land Use & Resources Plan Binder
		County Resolution,	Resolutions supporting	Good – See Land Use & Resources Plan Binder

		Ordinance and Emergency Declarations to preserve local industries	Stewardship, Wallow Fire Recovery Efforts, 4FRI Activities, U.S. Congressional actions.	
	Sustained Yield			
Wildlife	Feral	Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County. Currently being added to the Land Use & Resources Plan to address more specifically, threats from wild horses and burros and projected upcoming management changes via USFS Proposed Forest Plan.		
	Non native	Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a conservation strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County through residents’ public participation and comparative data from other counties.		
	Native	Land Use & Resources Plan		Good – see Land Use & Resources Plan – should however better cross-reference with economic and resolution data on impacts of big-game hunting and associated outdoor activities already documented in other forms within the county.
		County Comments		Good – See Land Use & Resources Plan
	Endangered & Threatened Species	Listings	Land Use & Resources Plan	<p>Good – See Land Use & Resources Plan Binder</p> <p>Good - Cumulative list of recent county comments with BOS Actions concerning T&E Issues:</p> <p>Willow Flycatcher, Yellow-Billed Cuckoos, Spiked Dace, Loach Minnow, Jaguar, Mexican Gray Wolf, Chiricahua Leopard Frog, New Mexico Jumping Mouse, Northern Mexican Gartersnake, Narrow-Headed Gartersnake, Humpback Chub, Spinedace, Three Forks Springsnail, Black-Footed Ferret, Mexican Spotted Owl, New Mexican Rattlesnake, Apache Trout</p>
			County Comments	
		Recovery	Land Use & Resources Plan	
			County Comments	
			County Resolutions and Ordinances	
		Habitat designation	Land Use & Resources Plan	
			County Comments	
			County Resolutions and Ordinances	

	Health & Safety	Land Use & Resources Plan		Good – See Land Use & Resources Plan Binder
		County Comments		Good – See Land Use & Resources Plan Binder
		County Resolutions and Ordinances		Good – See Land Use & Resources Plan Binder
Special Designation Areas		Land Use & Resources Plan	Land Use & Resources Plan	Land Use & Resources Plan
		AC-Comments on BLM and USFS Proposals for Habitat Areas, quite areas, Heritage Sites, Crown Jewells Program, Treasured Landscapes Program	AC-Comments on BLM and USFS Proposals for Habitat Areas, quite areas, Heritage Sites, Crown Jewells Program, Treasured Landscapes Program	AC-Comments on BLM and USFS Proposals for Habitat Areas, quite areas, Heritage Sites, Crown Jewells Program, Treasured Landscapes Program
		Comprehensive Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed with better cross-reference to Comprehensive Plan
Historic Sites		Comprehensive Plan		Good – encourages preservation of cultural and historic sites through specific recommendations to seek coordination of activities with appropriate state agencies.
Air	Air Quality	Land Use & Resources Plan		Minimal – Land Use & Resources Plan highlights cultural, historic and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed.
		Comprehensive Plan		Minimal – Although discussed as far as goals and social needs, should be more clearly defined in Land Use & Resources Plan and contain better cross-reference between the two documents.
		County Commentary on Generating Station's Particulate Matter and Carbon Reduction proposals		Good – See Land Use & Resources Plan Binder
Soil		Land Use &		Minimal – Land Use & Resources Plan highlights cultural, historic

Conservation		Resources Plan		and socio-economic importance of topic, but expansion and clarification of Land Use & Resources Plan is needed with cross-references to current actions and Comprehensive Plan
		Comprehensive Plan		Good – has definitions of various soil types, traditional and modern uses along with policies and recommendations.
Climate Change	Drought	N/A in Land Use & Resources Plan		Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a conservation strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County.
		N/A in Comprehensive Plan		Not addressed – should be defined, outlined and policy generated based on evidence from counties who have integrated a conservation strategy. This would allow the county to conduct public hearings on the topic, within a BOS meeting, more accurately reflecting the desires and needs of the residents of Apache County.
Others / County-Specific				

Gila County Gap Analysis

Gila County Overall Self-Assessment

“The Gila County Land Use and Resource Policy Plan of 2001 established objectives that need to be developed into plans and policies in order to meet the requirements of inconsistencies reconciliation and effective cooperation and coordination” (Robert Gould, Director Community Development Division, Gila County).

Gila County Gap Analysis Table

Compiled by Robert Gould, Director Community Development Division, Gila County.

Resource Class	Resource Category	Existing Board Action	Description	Inconsistencies reconciliation Applicability
Natural Resources Planning Knowledge Base	Documented Institutional Memory	Resolution 10-9-01 Land Use and Resource Policy Plan	14 Policies to define important values for Gila County	The Land Use Resource Policy Plan is intended to act as a communication tool to State and Federal Land owners to inform them of what Gila County residents value most. No comments or review has taken place by State or Federal land owners.
Forested Ecosystems	Ponderosa Pine Forests	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter IV Fish, Wildlife and Ecosystems	Establishes objectives for the development of specific plans and objectives
		Resolution 11-08-07	Four Forest Restoration Initiative	Four Forest Restorative Initiative funding to restore 30,000 acre per year for ten years. This project is appropriate to diminish fire danger
		Resolution 09-01-01	Forest Restoration in Northern AZ	Request to USFS and Office of the governor to support forest restoration to decrease forest fires from destroying the forest areas within northern AZ
		May 2013 County comments on the	Forested Ecosystems Restoration and	Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives address issues such as, but not limited to,

		Programmatic DEIS for the A/S National Forests Land Management Plan	Catastrophic Wildfire Prevention Objectives	protection of County residents and visitors; protections of collective and individual real properties; protection of transportation, energy and water collection and distribution infrastructures; ecological restoration of forested ecosystems; local scale restoration projects; landscape scale restoration projects; social license required for the non-conflictual and non-litigious implementation of restoration efforts (such as the one requested in public statements by former USFS Southwestern Regional Forester Corbin Newman for the Four Forest Restoration Initiative); industry development required to implement and fund restoration efforts through economically viable utilization of the wood products; long term guarantees of wood supply necessary to attract private investments in a small diameter utilization infrastructure in northeastern Arizona; etc.
		BOS Resolution 4FRI NEPA Comments May 2013	County comments on the Draft Environmental Impact Statement for the Four-Forest Restoration Initiative	Document includes an 11 page section describing the County's Objectives as Expressed in its Plans and Policies and specifically listing: <ul style="list-style-type: none"> • Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives • Forest Products Resources Management Objectives • Watershed Restoration Objectives • Rangelands Resources Management Objectives
	Mixed Conifers Forests			
	Open woodlands			
Rangelands and Farmlands	Rangelands Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Rangelands Resources Management Objectives	Rangelands Resources Management Objectives address issues such as, but not limited to, grazing availability, suitability, sustainability; ecological, economic and social carrying capacity; access; contribution to rural economic development; contribution to local Western custom and culture; etc.
	Grazing	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter VIII Rangeland Resources	Establishes objectives for the development of specific plans and objectives

		Comment letter for Salt River Allotments	DEIS Comments	Recommendations to amend the Monitoring Plan
		Grazing Allotment	Comment letter on EIS for grazing allotments	Salt River grazing allotments with Globe and Tonto Basin areas
	Agricultural			
Water and Watersheds	Watershed Restoration Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Watersheds Restoration Objectives	Watershed Restoration Objectives address issues such as, but not limited to, ecological restoration of watersheds; protection and development of water collection and distribution infrastructures; monetization of watershed ecosystem services; downstream consumption contribution to upstream production investments and maintenance; interactions between watershed functions and multiple use functions; etc.
	Watershed functions	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter XI Watershed Resources	Establishes objectives for the development of specific plans and objectives
	Water Production	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter XIII Water Rights	Establishes objectives for the development of specific plans and objectives
	Water Quality			
	Irrigation			
	Flood plains			
Minerals	Mineral And Energy Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Mineral and Energy Resources Management Objectives	Mineral And Energy Resources Management Objectives address issues such as, but not limited to, the availability, suitability, sustainability, productivity, access, contribution to rural economic development of solid, liquid or gaseous mineral resources; as well as solar, wind, hydropower, geothermal and other natural renewable energy resources; etc.
	All	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter VII Mineral Resources	Establishes objectives for the development of specific plans and objectives
	Solid	Letter of Response to Scoping letter	US Forest Service for Hydrological & Geo Data gathering	The intent of this letter was to support Resolution Mining in their efforts to complete the study to establish mining operations. Operations still have not been approved

				Supporting land exchange.
		Resolution 09-02-02	Land Exchange for Resolution Copper	Resolution provides full support for Resolution Copper to US Senate and House of Representatives
		Resolution 12-01-04	Land Exchange for Resolution Copper	Resolution thanking the House of Representatives for passing the Resolution land exchange and encouraging the Senate to do that also
	Gaseous			
	Liquid			
Renewable Energy	Solar			
	Wind			
Public Lands	Public Land Access	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter III Federal Land Access and Resource Use	Establishes objectives for the development of specific plans and objectives
		Road access	Grant of R.O.W. from BLM	BLM granted rights of way to Gila County to provide access to Cherry Flats Road. Allowed improved service to residents
	Motorized Travel	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Motorized Travel and Recreation Management Objectives	Motorized Travel And Recreation Management Objectives address issues such as, but not limited to, motorized access; motorized travel; motorized big game retrieval; motorized dispersed camping; motorized gathering of firewood; motorized access to dispersed fishing; motorized recreation opportunities; inventoried roadless areas; wilderness area designation; motorized access to grazing and logging opportunities; contribution of motorized access, recreation and travel to rural economic development; contribution to local Western custom and culture; etc.
		Transportation	Resolution 08-02-01	Travel Management Plan
		Travel Management Scoping	Letter to USFS	Travel Management Scoping Letter. Action not in conformance to partnering for review
	Land Exchanges	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter XII Land Exchanges	Establishes objectives for the development of specific plans and objectives
Infrastructures	Transportation			
	Utilities Corridors			

	Cellular			
Recreation	Consumptive			
	Non Consumptive	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter IX Recreation	Establishes objectives for the development of specific plans and objectives
		Resolution 08-02-05	Recreation Facility Analysis Proposed Program	Gila County was not involved in the preparation of this Program and it limits the ability of our citizens to enjoy the forest for recreation purposed. Plan does not include enough information to determine impact
Habitats	Old growth			
	Riparian			
	Desert Mesa			
	Conservation Banking			
Forest Products	Forest Products Management Resources Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Forest Products Resources Management Objectives	Forest Products Management Resources Objectives address issues such as, but not limited to, logging availability, suitability, sustainability, productivity, access; contribution to rural economic development; contribution to rural Western custom and culture; etc.
	Industry support			
	Sustained Yield	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter X Forest Management and Timber Resources	Establishes objectives for the development of specific plans and objectives
Wildlife	Native	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter IV Fish, Wildlife and Ecosystems	Establishes objectives for the development of specific plans and objectives
	Feral			
	Non native			
Endangered &	Listings	Willow Flycatcher comments	Letter of concern to US Fish & Wildlife	Expresses concerns that this listing has such as restricting business and recreational opportunities, Impact on local economies not included, and need for more detailed maps.

Threatened Species		Chiricahua Leopard Frog Comments	Letter of concern to US Fish & Wildlife	Expresses concerns regarding the detrimental impacts caused by restricting business and recreation access. Local economies not included. Adverse impact to Gila County residents
	Recovery	Letter of Concern to USFWS	Mexican Wolf	Proposal to delist Gray Wolf and relist Mexican Wolf very confusing, lacks any form of communications, inadequate comment time, inadequate time to develop consensus alternative Not appropriate timelines allowed
		Letter of Proposed Action	Mexican Wolf	Letter to USFWS providing support for Cooperating Agencies Alternative. Request for alternative to be evaluated
		MOU with USFWS	Collaboration on EIS	This MOU will permit the County to collaborate with the Fish and Wildlife Service on the preparation of an EIS for implementation of a proposed action alternatives
		Scoping Comments	Mexican Wolf	Comments on proposed actions for Cooperating Agencies being in default of full communications, engaging public and proposed actions and alternatives Deficiencies too numerous to list
	Habitat designation			
	Health & Safety			
Special Designation Areas	Management Areas Designation Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Management Areas Designation Objectives	Management Areas Designation Objectives address issues such as, but not limited to, nomination, designation, management, effect on socioeconomic resources, impacts on the other County objectives, etc. of inventoried roadless areas (which are technically not management areas per se but an administrative designation), wilderness areas, primitive areas, research natural areas, wildlife quiet areas, wild and scenic rivers, etc.
	Natural Scenic Sites	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter V Natural Scenic Sites	Establishes objectives for the development of specific plans and objectives
Historic Sites	Historic Sites	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter VI Historic Sites	Establishes objectives for the development of specific plans and objectives
	Cultures and Customs	Resolution 10-9-01 Land Use and	Chapter II Preserving its Cultures and	Establishes objectives for the development of specific plans and objectives

		Resource Policy Plan	Customs	
Air	Air Quality	Resolution 09-12-01	Establishing unclassified air quality designation for lead particulates	Gila County requests that Hayden, Winkelman and parts of Gila County be classified as unclassifiable for lead particulates
Soil Conservation				
Climate Change	Drought			
Others / County-Specific	Corp Civilian Conservation Center	Resolution 09-06-01	Support for Job Corp Civilian Conservation Center	Supports EDC in development of Job Corp. project
	Economy and Tax Base	Resolution 10-9-01 Land Use and Resource Policy Plan	Chapter XIV Economy and Tax Base	Establishes objectives for the development of specific plans and objectives

Graham County Gap Analysis

Graham County Overall Self-Assessment

“While Graham County has certainly been active in documenting its concerns and readiness to engage in cooperation, coordination and inconsistencies reconciliation, it has minimally, at best, established any policies and procedures adequate to comply with federal and state agencies requirements to qualify for such engagement. It would be the goal of the County to begin steps toward meeting these requirements and to develop a land use plan worthy of inconsistencies reconciliation and conflict reduction eligibility” (Joe Goodman, Planning & Zoning Director, Graham County).

Graham County Gap Analysis Table

Compiled by Joe Goodman, Planning & Zoning Director, Graham County.

Resource Class	Resource Category	Existing Board Action	Description	Inconsistencies reconciliation Applicability
Natural Resources Planning Knowledge Base	Documented Institutional Memory	Article 1.2.1 Comp Plan	Statement addressing A.R.S. § 11-806	State statute mandates that Counties provide a plan for conserving natural resources within the County. Yet, Federal and State decisions have adversely affected this ability
Forested Ecosystems	Ponderosa Pine Forests	Resolution 1995-11	Concern for catastrophic fire	This document expresses concern for the high risk of Catastrophic fire in the Coronado National Forest.
		Resolution 2002-16	Concern for tree mortality	This document expresses concern for tree mortality due to insect and disease infestation, drought, and fire damage.
		Resolution 2003-03	State of Emergency	This document declares a state of emergency in the forest due to insect and disease infestation, drought and fire damage.
		May 2013 County comments on the	Forested Ecosystems Restoration and	Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives address issues such as, but not limited to,

		Programmatic DEIS for the A/S National Forests Land Management Plan	Catastrophic Wildfire Prevention Objectives	protection of County residents and visitors; protections of collective and individual real properties; protection of transportation, energy and water collection and distribution infrastructures; ecological restoration of forested ecosystems; local scale restoration projects; landscape scale restoration projects; social license required for the non-conflictual and non-litigious implementation of restoration efforts (such as the one requested in public statements by former USFS Southwestern Regional Forester Corbin Newman for the Four Forest Restoration Initiative); industry development required to implement and fund restoration efforts through economically viable utilization of the wood products; long term guarantees of wood supply necessary to attract private investments in a small diameter utilization infrastructure in northeastern Arizona; etc.
		BOS Resolution 4FRI NEPA Comments May 28, 2013	County comments on the Draft Environmental Impact Statement for the Four-Forest Restoration Initiative	Document includes an 11 page section describing the County's Objectives as Expressed in its Plans and Policies and specifically listing: <ul style="list-style-type: none"> • Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives • Forest Products Resources Management Objectives • Watershed Restoration Objectives • Rangelands Resources Management Objectives
		Resolution 2014-08	Requesting financial support	As predicted in previous documents, a catastrophic fire happened June 2004, burning 29,200 acres at an estimated cost of 10 million dollars. This resolution is requesting financial support for forest restoration.
	Mixed Conifers Forests			
	Open woodlands			
Rangelands and Farmlands	Rangelands Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land	Rangelands Resources Management Objectives	Rangelands Resources Management Objectives address issues such as, but not limited to, grazing availability, suitability, sustainability; ecological, economic and social carrying capacity; access; contribution to rural economic development; contribution to local Western custom and culture; etc.

		Management Plan		
	Grazing	Resolution 1990-10	Grassing withdraw	This document opposes the additional withdrawal of grassing land acreage by BLM.
		Resolution 1995-08	Grazing Permits	This document addresses the US Forest Service-Safford District's attempt to withdraw grazing land allotment and their reluctance to issue ten year renewals on grazing permits.
		Article 2.11 of the Comp Plan	Economic Policy	This policy addresses the economic use of public lands and resources for grazing, recreation, tourism, and other use activities.
	Agricultural			
Water and Watersheds	Watershed Restoration Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Watersheds Restoration Objectives	Watershed Restoration Objectives address issues such as, but not limited to, ecological restoration of watersheds; protection and development of water collection and distribution infrastructures; monetization of watershed ecosystem services; downstream consumption contribution to upstream production investments and maintenance; interactions between watershed functions and multiple use functions; etc.
	Watershed functions	Resolution 1993-13	Public input	This document requests public input prior to legislative enactment of Wild & Scenic Rivers Act.
		Resolution 2014-08	Forest Restoration	This document request that Congress and Forest Service increase funds toward forest restoration.
	Water Production	Resolution 1989-15	Surface Water	This document declares a state of emergency for the lack of surface and ground water throughout Graham County due to the lack of precipitation.
		Resolution 1990-65	State of Emergency	This document declares a state of emergency to the watershed due to excessive drought.
		Resolution 2000-06	Surface Water	This document declares a state of emergency for the lack of surface and ground water throughout Graham County due to the lack of precipitation.
		Resolution 2002-07	Surface Water	This document declares a state of emergency for the lack of surface and ground water throughout Graham County due to the lack of precipitation.
		Resolution 2003-06	Surface Water	This document declares a state of emergency for the lack of surface and ground water throughout Graham County due to the lack of

				precipitation.
	Water Quality			
	Irrigation	Resolution 1994-03	State of Emergency	This document declares a state of emergency in the Bonita Creek Water system due to drought.
	Flood plains	Resolution 1993-06	Flood Control	This document addresses the need for a flood control structure to reduce the potential for severe flood water damage.
		Resolution 1994-03	Water Supply	This document declares a state of emergency in the Bonita Creek Water system which sustained extensive damage during the 1993 flood event.
Minerals	Mineral And Energy Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Mineral and Energy Resources Management Objectives	Mineral And Energy Resources Management Objectives address issues such as, but not limited to, the availability, suitability, sustainability, productivity, access, contribution to rural economic development of solid, liquid or gaseous mineral resources; as well as solar, wind, hydropower, geothermal and other natural renewable energy resources; etc.
	Solid	Resolution 2003-10	Phelps Dodge Mine	This document supports the Phelps Dodge Safford Mine Project.
		Resolution 2006-13	Senate Bill 2466	This document supports Senate Bill 2466 which is a land exchange between US Department of Agriculture, US Forest Service, Tonto National Forest and the Resolution Copper Company.
	Gaseous			
	Liquid			
Renewable Energy	Solar			
	Wind			
	Biomass	Resolution 2001-05	AZ Biomass Energy Pilot Program	This document supports the Arizona Biomass Energy Pilot Program to improve the condition of forested lands.
	All	Resolution 2004-17	Energy Management Plan	This document initiates the creation of a five year energy management plan Which authorizes the application to the AZ Department of Commerce, Energy Office to participate in the municipal energy management program.
Public Lands	Public Land Access			

	Motorized Travel	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Motorized Travel and Recreation Management Objectives	Motorized Travel And Recreation Management Objectives address issues such as, but not limited to, motorized access; motorized travel; motorized big game retrieval; motorized dispersed camping; motorized gathering of firewood; motorized access to dispersed fishing; motorized recreation opportunities; inventoried roadless areas; wilderness area designation; motorized access to grazing and logging opportunities; contribution of motorized access, recreation and travel to rural economic development; contribution to local Western custom and culture; etc.
		Resolution 2008-03	Forest Service Road Management Plan	This document opposes the Forest Service Travel Management Plan for the Apache Sitgreaves National Forest due to its unnecessary restrictions on the publics' use of the forest.
Infrastructures	Transportation	Resolution 1990-29	Road Access	This document supports the Mt. Graham Observatory request to deny public access to Emerald Peak Road.
	Utilities Corridors			
	Cellular			
	Other	Resolution 1995-12	Binocular Telescope	This document supports the construction of the University of Arizona Binocular Telescope on Mt. Graham.
Recreation	Consumptive			
	Non Consumptive	Resolution 1989-19	Lake Development	This document endorses the development of a lake and campground in the Apache Sitgreaves National Forest.
		Resolution 1991-01	Recreation Area	This document supports the creation of a national recreation area for the Pinaleno section of the Coronado National Forest.
		Article 2.11 of the Comp Plan	Economic Policy	This policy addresses the economic use of public lands and resources for grazing, recreation, tourism, and other use activities.
Habitats	Old growth			
	Riparian	Resolution 1993-01	Gila Box Rec Area	This document supports the establishment of a public recreation area in the Gila Box which includes habitat rehabilitation.
	Desert Mesa			
	Conservation Banking			
Forest Products	Forest Products	May 2013 County	Forest Products	Forest Products Management Resources Objectives address issues

	Management Resources Objectives	comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Resources Management Objectives	such as, but not limited to, logging availability, suitability, sustainability, productivity, access; contribution to rural economic development; contribution to rural Western custom and culture; etc.
	Industry support	Resolution 2007-09	Forest Products	This document supports the Oriented Strand Board Plant by the Arizona Forest Restoration Products Inc. This company will be involved in harvesting trees to supply wood fiber to the biomass power plants throughout Arizona.
	Sustained Yield			
Wildlife	Native			
	Feral			
	Non Native			
Endangered & Threatened Species	Listings	Resolution 1993-10	Spotted Owl	This document supports the delisting of the Mexican Spotted Owl as an endangered species.
	Recovery	Resolution 1994-22	Spotted Owl	This document supports Alternative "E" as a better ecosystem management approach as opposed to the US Forest Service Draft Environmental Impact Statement.
		Resolution 1995-17	Mexican Grey Wolf	This document opposes the draft environmental statement which proposes the reintroduction of the Mexican Grey Wolf in the Southwestern United States.
	Habitat designation	Resolution 1993-01	Habitat Designation	This document opposes the US Fish and Wildlife Services proposed designation of critical habitat for the razorback sucker.
		Resolution 1995-06	Spotted Owl	This document requests the removal of the Pinaleno Mountains as a designated habitat for the Mexican Spotted Owl.
		Resolution 2004-19	Red Squirrel	This document requests that Congress rescind the designation of the Mt. Graham Red Squirrel Refugium.
	Health & Safety			
		Resolution 1995-18	Endangered Species Act Amendment	This document requests an amendment to the Endangered Species Act in an effort to mitigate negative economic, social, and cultural impacts to the county.
Special	Management Areas	May 2013 County comments on the	Management Areas Designation	Management Areas Designation Objectives address issues such as, but not limited to, nomination, designation, management, effect on

Designation Areas	Designation Objectives	Programmatic DEIS for the A/S National Forests Land Management Plan	Objectives	socioeconomic resources, impacts on the other County objectives, etc. of inventoried roadless areas (which are technically not management areas per se but an administrative designation), wilderness areas, primitive areas, research natural areas, wildlife quiet areas, wild and scenic rivers, etc.
Historic Sites				
Air	Air Quality	Article 2.12 of Comp Plan	Environmental Resources	This Policy states that Graham County will work cooperatively with Federal and State Agencies to evaluate, monitor, preserve and protect the overall quality of air within Graham County.
Soil Conservation				
Climate Change	Drought			
Others / County-Specific	Statewide Planning	Resolution 1990-09	Statewide Planning	This document endorses House Bill 2635 establishing a Statewide Planning Board which will be responsible for managing the state's future growth.
	Natural Resources Based Economic Policy	Article 2.11 of the Comp Plan	Economic Policy	This policy addresses the economic use of public lands and resources for grazing, recreation, tourism, and other use activities.

Greenlee County Gap Analysis

Greenlee County Overall Self-Assessment

“Greenlee County has proactively developed its Land Use and Resource Policy Plan as early as 1995. At the time, the effort was innovating, and the Land Use and Resource Policy Plan has served effectively as the basis for many county action related to natural resources management in the intervening two decades. However, the Greenlee County Land Use and Resource Policy Plan is sometimes more aspirational than detailed. A revision, focused on specificity, is required to meet the standards of coordination, inconsistencies reconciliation and conflict reduction” (Derek Rapier, County Attorney, Greenlee County).

Greenlee County Gap Analysis Table

Compiled by Derek Rapier, County Attorney, Greenlee County.

Resource Class	Resource Category	Existing Board Action	Description	Inconsistencies reconciliation Applicability
Natural Resources Planning Knowledge Base	Documented Institutional Memory	Resolution 06-02-01	Five Year Plan	This document establishes a Five Year Natural Resources Plan.
		Resolution 14-02-01	PILT Payment	This document requests the full funding for the Payment-in-Lieu-of-Taxes Program to include back payments.
		Resolution 14-03-01	US Forest Service Support Request	This document requests that the US Congress and the US Forest Service take immediate steps to provide increased financial support to Arizona's local forests in order to maintain existing timber industry.
Forested Ecosystems	Ponderosa Pine Forests	Resolution 02-08-02	Funding Request	This document supports federal legislation for the funding of forest management practices to protect the health of the forest.
		Resolution 02-11-01	Tree Mortality	This document addresses the concern for insect infested & drought impacted forest ecosystems of Eastern Arizona.
		Resolution 03-01-01	Forest Emergency	This document declares a state of emergency due to insect infested & drought impacted forest ecosystems of Eastern Arizona.
		Resolution 03-07-02	Forest Density	This document supports the purpose of the coalition of

				Northeastern Arizona Counties addressing forest density and wildfire hazard.
		Resolution 11-06-01	Open Burning Regulation	This document establishes an Open Burning Restriction during declaration of fire emergencies in the forest.
		Resolution 11-08-03	SB 1344 Support	This document supports SB 1344 establishing the Arizona Wallow Fire Recovery and Monitoring Act.
		May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives	Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives address issues such as, but not limited to, protection of County residents and visitors; protections of collective and individual real properties; protection of transportation, energy and water collection and distribution infrastructures; ecological restoration of forested ecosystems; local scale restoration projects; landscape scale restoration projects; social license required for the non-conflictual and non-litigious implementation of restoration efforts (such as the one requested in public statements by former USFS Southwestern Regional Forester Corbin Newman for the Four Forest Restoration Initiative); industry development required to implement and fund restoration efforts through economically viable utilization of the wood products; long term guarantees of wood supply necessary to attract private investments in a small diameter utilization infrastructure in northeastern Arizona; etc.
		BOS Resolution 4FRI NEPA Comments May 2013	County comments on the Draft Environmental Impact Statement for the Four-Forest Restoration Initiative	Document includes an 11 page section describing the County's Objectives as Expressed in its Plans and Policies and specifically listing: <ul style="list-style-type: none"> • Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives • Forest Products Resources Management Objectives • Watershed Restoration Objectives • Rangelands Resources Management Objectives
	Mixed Conifers Forests			
	Open woodlands			

	Forest and Ecosystems Health	June 6, 1995 Land Use and Resource Policy Plan	Ecosystems - Plants - Animals Section	Establishes objectives for the development of specific plans and objectives
		June 6, 1995 Land Use and Resource Policy Plan	Forest Health Section	Establishes objectives for the development of specific plans and objectives
Rangelands and Farmlands	Rangelands Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Rangelands Resources Management Objectives	Rangelands Resources Management Objectives address issues such as, but not limited to, grazing availability, suitability, sustainability; ecological, economic and social carrying capacity; access; contribution to rural economic development; contribution to local Western custom and culture; etc.
	Grazing	June 6, 1995 Land Use and Resource Policy Plan	Grazing Section	Establishes objectives for the development of specific plans and objectives
	Agricultural	June 6, 1995 Land Use and Resource Policy Plan	Farming Section	Establishes objectives for the development of specific plans and objectives
	Range Health	June 6, 1995 Land Use and Resource Policy Plan	Range Health Section	Establishes objectives for the development of specific plans and objectives
Water and Watersheds	Watershed Restoration Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Watersheds Restoration Objectives	Watershed Restoration Objectives address issues such as, but not limited to, ecological restoration of watersheds; protection and development of water collection and distribution infrastructures; monetization of watershed ecosystem services; downstream consumption contribution to upstream production investments and maintenance; interactions between watershed functions and multiple use functions; etc.
	Watershed functions	June 6, 1995 Land Use and Resource	Watershed & Riparian Health Section	Establishes objectives for the development of specific plans and objectives

		Policy Plan		
		Proclamation 2/12/05	Flood Damage	This proclamation establishes the existence of a state of emergency due to flooding conditions and loss of property.
		Resolution 8/11/05	Flood Damage	This document establishes a state of emergency to road damage caused by flooding and erosion.
		Resolution 06-08-03	Flood Control	This document declares a state of emergency due to the dangerous potential of severe flooding conditions.
		Resolution 06-09-01	Flood Control	This document declares a state of emergency due to the dangerous potential of severe flooding conditions.
	Water Production			
	Water Quality			
	Irrigation			
	Flood plains			
	Water Management	Resolution 07-11-01	Clean Water Act	This document opposes Federal Efforts to broaden jurisdiction under the Clean Water Act.
		June 6, 1995 Land Use and Resource Policy Plan	Water Access Resources And Authority To Manage Section	Establishes objectives for the development of specific plans and objectives
Minerals	Mineral And Energy Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Mineral and Energy Resources Management Objectives	Mineral And Energy Resources Management Objectives address issues such as, but not limited to, the availability, suitability, sustainability, productivity, access, contribution to rural economic development of solid, liquid or gaseous mineral resources; as well as solar, wind, hydropower, geothermal and other natural renewable energy resources; etc.
	All	June 6, 1995 Land Use and Resource Policy Plan	Mining Section	Establishes objectives for the development of specific plans and objectives
	Solid	Resolution 03-05-02	Mining Project	This document supports the Phelps Dodge-Safford, Arizona Mine Project.
	Gaseous			
	Liquid			

Renewable Energy	Solar			
	Wind			
	Biomass	Resolution 01-04-01	Biomass Program	This document endorses the Arizona Biomass Energy Pilot Program.
Public Lands	Public Land Access			
	Motorized Travel	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Motorized Travel and Recreation Management Objectives	Motorized Travel And Recreation Management Objectives address issues such as, but not limited to, motorized access; motorized travel; motorized big game retrieval; motorized dispersed camping; motorized gathering of firewood; motorized access to dispersed fishing; motorized recreation opportunities; inventoried roadless areas; wilderness area designation; motorized access to grazing and logging opportunities; contribution of motorized access, recreation and travel to rural economic development; contribution to local Western custom and culture; etc.
		Resolution 08-01-01	USFS Road Plan	This document opposes the Forest Service Road Management Plan
	Multiple Use	June 6, 1995 Land Use and Resource Policy Plan	Multiple-Use Section	Establishes objectives for the development of specific plans and objectives
	Planning	June 6, 1995 Land Use and Resource Policy Plan	Planning And Management Authority on Public Lands Section	Establishes objectives for the development of specific plans and objectives
		June 6, 1995 Land Use and Resource Policy Plan	Role of County Government Section	Establishes objectives for the development of specific plans and objectives
		June 6, 1995 Land Use and Resource Policy Plan	Coalition and Coordination Section	Establishes objectives for the development of specific plans and objectives
		June 6, 1995 Land Use and Resource Policy Plan	Law Enforcement Section	Establishes objectives for the development of specific plans and objectives
	Law Enforcement	June 6, 1995 Land Use and Resource Policy Plan	Law Enforcement Section	Establishes objectives for the development of specific plans and objectives
	Transportation	Resolution 02-08-01	Bridge funding	This document requests the funding for the rehabilitation of three bridges on the Black Hills Back Country By-way.
Infrastructures	Transportation	Resolution 02-08-01	Bridge funding	This document requests the funding for the rehabilitation of three bridges on the Black Hills Back Country By-way.

		Resolution 13-05-02	Highway Expansion	This document, in support of economic development expansion of state land trust property, establishes the expansion of State Route 78.
	Utilities			
	Corridors			
	Cellular			
Recreation	Consumptive			
	Non Consumptive	June 6, 1995 Land Use and Resource Policy Plan	Recreation Section	Establishes objectives for the development of specific plans and objectives
		Resolution 9/21/82	Campground	This document renews the recreation permit lease of the Tabletop Recreation Area.
Habitats	Old growth			
	Riparian	June 6, 1995 Land Use and Resource Policy Plan	Watershed & Riparian Health Section	Establishes objectives for the development of specific plans and objectives
	Desert Mesa			
	Conservation Banking			
Forest Products	Forest Products Management Resources Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Forest Products Resources Management Objectives	Forest Products Management Resources Objectives address issues such as, but not limited to, logging availability, suitability, sustainability, productivity, access; contribution to rural economic development; contribution to rural Western custom and culture; etc.
	Industry support	June 6, 1995 Land Use and Resource Policy Plan	Timber Section	Establishes objectives for the development of specific plans and objectives
		Resolution 06-02-01	Five Year Plan	This document establishes a Five Year Natural Resource Mitigation Plan.
		Resolution 07-05-01	Timber Plant	This document supports and authorizes the construction of an oriented strand board plant by Arizona Forest Restoration Products Inc.

		Resolution 09-01-01	Statewide Strategy Agreement	This document requests that the US Forest Service validate and institutionalize the agreement reached in the Statewide Strategy and the analysis of small diameter wood supply in all relevant forests.
		Resolution 14-03-01	US Forest Service Support Request	This document requests that the US Congress and the US Forest Service take immediate steps to provide increased financial support to Arizona's local forests in order to maintain existing timber industry.
	Sustained Yield			
Wildlife	Native	June 6, 1995 Land Use and Resource Policy Plan	Ecosystems - Plants - Animals Section	Establishes objectives for the development of specific plans and objectives
	Feral			
	Non native			
	Management	June 6, 1995 Land Use and Resource Policy Plan	Endangered Species & Wildlife Management Section	Establishes objectives for the development of specific plans and objectives
Endangered & Threatened Species	Listings			
	Recovery	Resolution 01-05-01	Black Tailed Prairie Dog	This document opposes the reintroduction of the Black Tailed Prairie Dog.
		Resolution 03-04-02	Black Tailed Prairie Dog	This document opposes the reintroduction of the Black Tailed Prairie Dog.
	Habitat designation			
	Health & Safety			
	Management	June 6, 1995 Land Use and Resource Policy Plan	Endangered Species & Wildlife Management Section	Establishes objectives for the development of specific plans and objectives
Special Designation Areas	Management Areas Designation Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Management Areas Designation Objectives	Management Areas Designation Objectives address issues such as, but not limited to, nomination, designation, management, effect on socioeconomic resources, impacts on the other County objectives, etc. of inventoried roadless areas (which are technically not management areas per se but an administrative designation), wilderness areas, primitive areas, research natural areas, wildlife

				quiet areas, wild and scenic rivers, etc.
	Highway Expansion	Resolution 13-05-02	Highway Expansion	This document, in support of economic development expansion of state land trust property, establishes the expansion of State Route 78.
Historic Sites	Culture	June 6, 1995 Land Use and Resource Policy Plan	Culture – Definitions / Preservation / Diversity Section	Establishes objectives for the development of specific plans and objectives
Air	Air Quality			
Soil Conservation	Soil Stewardship	Proclamation 5/5/80	Soil Stewardship	This document establishes soil stewardship addressing the need to protect and value the soil of Greenlee County.
Climate Change	Drought	Resolution 00-05-01	Drought Conditions	This document establishes a state of emergency in Greenlee County due to severe drought conditions.
		Resolution 02-03-01	Drought Conditions	This document establishes a state of emergency in Greenlee County due to severe drought conditions.
		Resolution 09-10-01	Drought Conditions	This document establishes a state of emergency in Greenlee County due to severe drought conditions.
Others / County-Specific	Role Of County Government	June 6, 1995 Land Use and Resource Policy Plan	Role Of County Government Section	Establishes objectives for the development of specific plans and objectives
	Tax Base / Diversity	June 6, 1995 Land Use and Resource Policy Plan	Tax Base / Diversity Section	Establishes objectives for the development of specific plans and objectives

Navajo County Gap Analysis

Navajo County Overall Self-Assessment

“Navajo County board actions are essential to the management of natural resources such as forest health and fire safety. Policies need to be put in place as part of a Natural Resources Plan that will guide staff and the public for these conditions. Partnering with local, state, and federal agencies produces an efficient best practice for dealing with dangerous forest conditions and other natural resource challenges. Navajo County currently has no overarching Land Use and Resource Policy Plan, Natural Resource Management Plan, or similar policies, plans or objectives document, but strong existing components. These components will be good building blocks for a Natural Resources Plan” (Dusty Parsons, Deputy County Manager (Ret.), Navajo County).

Navajo County Gap Analysis Table

Compiled by Dusty Parsons, Deputy County Manager (Ret.), Navajo County.

Resource Class	Resource Category	Existing Board Action	Description	Inconsistencies reconciliation Applicability
Forested Ecosystems	Ponderosa Pine Forests	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives	Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives address issues such as, but not limited to, protection of County residents and visitors; protections of collective and individual real properties; protection of transportation, energy and water collection and distribution infrastructures; ecological restoration of forested ecosystems; local scale restoration projects; landscape scale restoration projects; social license required for the non-conflictual and non-litigious implementation of restoration efforts (such as the one requested in public statements by former USFS Southwestern Regional Forester Corbin Newman for the Four Forest Restoration Initiative); industry development required to implement and fund restoration efforts through economically viable utilization of the wood products; long term guarantees of wood supply necessary to attract private investments in a small diameter

				utilization infrastructure in northeastern Arizona; etc.
		May 2013 Apache/Sitgreaves National Forest Land Management Plan comments on Programmatic Draft Impact Statement	County comments on the Draft Environmental Impact Statement for the Four-Forest Restoration Initiative	Document includes an 11 page section describing the County's Objectives as Expressed in its Plans and Policies and specifically listing: <ul style="list-style-type: none"> • Forested Ecosystems Restoration and Catastrophic Wildfire Prevention Objectives • Forest Products Resources Management Objectives • Watershed Restoration Objectives • Rangelands Resources Management Objectives
		March 2014 Ordinance # 01-14 Outdoor Fire ordinance	Establishes fire zones and emergency restrictions as well as criminal penalties	Navajo County repealed an old fire ordinance and adopted this in 2014. It follows very closely the National Forest steps when declaring the different stages of fire restrictions. Previously all the local towns and fire districts had different procedures. The new ordinance follows the Forest Service lead in declaring fire restrictions
		April 2002 Resolution # 26-02 January 2003 Resolution # 02-03 Declaring Insect , drought, and fire emergencies for Private, State, Federal and Tribal Lands	Declarations were for the bark beetle and drought conditions that existed during this time period.	The declarations allow Navajo County to provide resources to the most impacted drought areas such as livestock and wildlife.
	Mixed Conifers Forests			
	Open woodlands			
Rangelands and Farmlands	Rangelands Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Rangelands Resources Management Objectives	Rangelands Resources Management Objectives address issues such as, but not limited to, grazing availability, suitability, sustainability; ecological, economic and social carrying capacity; access; contribution to rural economic development; contribution to local Western custom and culture; etc.

	Grazing		Allows Partnering for fencing projects on public and private lands	Policy allows for large and beneficial projects on private and public lands. National Forest and BLM lands can participate. Policy would be a good element in a natural resources plan but only as one element
	Agricultural			
Water and Watersheds	Watershed Restoration Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Watersheds Restoration Objectives	Watershed Restoration Objectives address issues such as, but not limited to, ecological restoration of watersheds; protection and development of water collection and distribution infrastructures; monetization of watershed ecosystem services; downstream consumption contribution to upstream production investments and maintenance; interactions between watershed functions and multiple use functions; etc.
	Watershed Functions			
	Water Production			
	Water Quality			
	Irrigation			
	Flood plains	Ordinance N0. FCD 01-09 Ordinance amending Flood Control District Ord. # 01-08	Provide some technical amendments to old ordinance.	The ordinance does not have authority on Federal land but does impact upstream and downstream issues on some federal, state, and private lands. Important ordinance for Natural Resources Plan.
Minerals	Mineral And Energy Resources Management Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Mineral and Energy Resources Management Objectives	Mineral And Energy Resources Management Objectives address issues such as, but not limited to, the availability, suitability, sustainability, productivity, access, contribution to rural economic development of solid, liquid or gaseous mineral resources; as well as solar, wind, hydropower, geothermal and other natural renewable energy resources; etc.
	Solid	Feb. 2012 First Knoll Cinder Pit Lease renewal with US Forest Service	The county main supply of cinders for county roads is the First Knoll Cinder Pit	The Material is vital for the county. It is cost effective and allows for good road maintenance and snow/ice control. The material is also made available for forest service roads. Very important element for a Natural Resources Plan.

	Gaseous			
	Liquid			
Renewable Energy	Solar			
	Wind	Dry Lake Wind Project	Special Use Permit for wind energy project	The permit requires that the applicant include all state and federal partners in addressing endangered species and habitat issues. The permit reflects the BOS support for the development of alternative clean energy and is a critical element for their Natural Resources Objectives.
	Biomass			
Public Lands	Public Land Access			
	Motorized Travel	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Motorized Travel and Recreation Management Objectives	Motorized Travel And Recreation Management Objectives address issues such as, but not limited to, motorized access; motorized travel; motorized big game retrieval; motorized dispersed camping; motorized gathering of firewood; motorized access to dispersed fishing; motorized recreation opportunities; inventoried roadless areas; wilderness area designation; motorized access to grazing and logging opportunities; contribution of motorized access, recreation and travel to rural economic development; contribution to local Western custom and culture; etc.
		Navajo County letters addressing the Travel Management Plan for the Apache Sit greaves.	Navajo County supported Alternative B of their draft EIS for Travel Management Plan	Navajo County has objected to the number of road closures that are proposed in the Draft EIS as well as the dispersed camping and game retrieval proposals. The county believes that closing too many roads will impact the economic status not the county. They also believe that cultural aspect of allowing an open forest will be impacted. Letters states the position of the county but is not adopted as a formal policy. It should be included as an element of a Natural Resources Plan which would improve status for EIS decisions.
	Forest Roads Maintenance	April 2011 Resolution # 18-22 Accepting Road Easements for Forest Service Roads	The county has accepted these easements so that local land owners will	The county has many easements that provide access to private land holdings. The Forest service provides no services or maintenance for these easements. These easements are critical for public access and provide standing for Forest Service issues and plans for travel

		916, 916A, 332, and 332A in the aniline Area	have access to their property	management.
		Resolutions # 47-01 #46-01 # 45-01 Accepting a road easement for Forest Development Road 11-86, 11-153, 11-504	The county has accepted these easements so that local land owners will have access to their property	These easements develop a county interest in the development of public travel within the National Forest of Navajo County and are essential elements for the Natural Resources objectives.
		RAC Grants for Forest Service Roads maintained by Navajo County	These grants provide maintenance for FS Roads that the county has established as County Highways	
		RAC Grants for Forest Service Roads maintained by Navajo County		
Infrastructures	Transportation	RAC Grants for Forest Service Roads maintained by Navajo County	These grants provide maintenance for FS Roads that the county has established as County Highways	The county has many easements that provide access to private land holdings. The Forest service provides no services or maintenance for these easements. These easements are critical for public access and provide standing for Forest Service issues and plans for travel management. These easements develop a county interest in the development of public travel within the National Forest of Navajo County and are essential elements for the Natural Resources objectives.
	Utilities Corridors			
	Cellular			
Recreation	Consumptive			
	Non Consumptive			
Habitats	Old growth			

	Riparian			
	Desert Mesa			
	Conservation Banking			
Forest Products	Forest Products Management Resources Objectives	May 2013 County comments on the Programmatic DEIS for the A/S National Forests Land Management Plan	Forest Products Resources Management Objectives	Forest Products Management Resources Objectives address issues such as, but not limited to, logging availability, suitability, sustainability, productivity, access; contribution to rural economic development; contribution to rural Western custom and culture; etc.
	Industry support	February 2014 Resolution 06-14 Urging the US Congress to increase funding to AZ's local Forest	Resolution requesting increased financial support to AZ Forest especially the Apache Sit greaves for major forest thinning projects	Forest thinning has been a major objective for Navajo County for many years. It provides for healthy forest and can provide economic growth and new jobs. This item is included in Navajo County's goals and objectives for Natural Resources and would be a key element in a Natural Resources Plan.
		August 2011 Resolution 38-11 Support of Az. Restoration Products	Navajo County Support for Az. Forest Restoration Products for large scale restoration contract	Forest thinning has been a major objective for Navajo County for many years. It provides for healthy forest and can provide economic growth and new jobs.
		January 2009 Resolution 04-09 Support for accelerated landscape, consensus based industry supported forest restoration	Navajo County has experienced several devastating fires over the last 15 years which degraded forest and watersheds. Their support for large scale forest restoration has been a major objective for more than 20 years.	Forest thinning has been a major objective for Navajo County for many years. It provides for healthy forest and can provide economic growth and new jobs.

	Sustained Yield			
Wildlife	Native			
	Feral			
	Non Native			
Endangered & Threatened Species	Listings	August 2012 Resolution # 27-13 Mexican Wolf.	Concerns for the proposed listing of the Mexican Wolf and nonessential Experimental rule.	Identifies county position on the additional relocation of Mexican wolves in the region and their classification. States a position but does not set policy. If included in Natural Resources plan as policy would improve status with federal govt.
	Recovery	April 2010 Resolution 23-10 Regarding the reintroduction of Mexican Gray Wolf Program.	Resolution requesting new EIS which addresses social and cultural impacts to residents of Navajo County.	Navajo County states several issues that the wolf program has failed to address and request that a new EIS be conducted. They also oppose any new releases until the EIS is complete.
		Sept. 2013 Ordinance # 02-03 Amending Predatory animal Ord.	Allows for deadly force for protecting human life, property, and domestic animals against certain predatory animals.	Although this is an ordinance of the county it lacks authority on federal lands. Identifying this in a Natural Resource and giving it statutory authority in the plan would strengthen its enforcement ability. Policy would be a good element in a natural resources plan but only as one element.
	Habitat designation			
	Health & Safety	May 2008 Ordinance # 01-08 Prohibits release of certain predatory animals.	Prohibits the importation and release into the wild of certain predatory animals.	This ordinance was passed in 2008 not prevent releases of certain predatory species into Navajo County. Although this is an ordinance of the county it lacks authority on federal lands. Identifying this in a Natural Resource and giving it statutory authority in the plan would strengthen its enforcement ability. Policy would be a good element in a natural resources plan but only as one element.
Special Designation	Management Areas Designation	May 2013 County comments on the Programmatic DEIS	Management Areas Designation Objectives	Management Areas Designation Objectives address issues such as, but not limited to, nomination, designation, management, effect on socioeconomic resources, impacts on the other County objectives,

Areas	Objectives	for the A/S National Forests Land Management Plan		etc. of inventoried roadless areas (which are technically not management areas per se but an administrative designation), wilderness areas, primitive areas, research natural areas, wildlife quiet areas, wild and scenic rivers, etc.
Historic Sites				
Air	Air Quality			
Soil Conservation				
Climate Change	Drought	Resolutions # 60-87 - - n# 72-89 -- #16-96-- #71-09 --#78-07 -- #61-99 Declaring Drought Emergencies	All these resolution declare drought emergencies in Navajo County. This may be in response to climate change	The declarations allow Navajo County to provide resources to the most impacted drought areas such as livestock and wildlife. The drought declarations provide a direction for staff and allow for several private, local, federal, and tribal partners. As part of a Natural Resource Plan it would provide a process and policy of when to declare such emergencies.
Others / County-Specific	County Comprehensive Plan	May 2011 County Comprehensive Plan	Guide to future growth and land use	The document is a guide to private land uses and development in Navajo County. Does not address federal and state land. Many of the elements could be included in a Natural Resources Plan but the comprehensive plan is not a Natural Resources Plan.

Appendix VII. Natural Resources Detailed Planning Checklist

☐ Step 1 - Identify all expected federal actions

- ☐ Register with AZ Single Point of Contact (SPOC) Clearing House
- ☐ Analyze BLM Land Use ePlanning and NEPA Register
- ☐ Analyze USFS local forests Schedule of Proposed Actions (SOPA)
- ☐ Analyze ESA / USFWS candidate species list and critical habitats designations plans
- ☐ Analyze ESA mega-settlement list
- ☐ Analyze EPA proposed actions
- ☐ Analyze Bureau of Reclamation proposed actions
- ☐ Analyze U.S. Army Corps of Engineers proposed actions
- ☐ Analyze all federal agencies proposed actions for special designation areas
- ☐ Analyze conservation and environmental groups published agendas
- ☐ Analyze proposed infrastructure development projects
- ☐ Analyze proposed economic development projects
- ☐ Analyze proposed recreational development projects
- ☐ Incorporate all other sources of information

☐ Step 2 - Identify all natural resources to be managed

- ☐ Forested ecosystems
 - ☐ Ponderosa pine forests
 - ☐ Mixed conifers forests
 - ☐ Open woodlands
- ☐ Rangelands & farmlands
 - ☐ Grass lands
 - ☐ Grazing
 - ☐ Agricultural
- ☐ Water and watersheds
 - ☐ Watershed functions
 - ☐ Water production
 - ☐ Water quality
 - ☐ Irrigation
 - ☐ Flood plains
 - ☐ Groundwater
- ☐ Minerals
 - ☐ Solid
 - ☐ Gaseous
 - ☐ Liquid
- ☐ Renewable energy
 - ☐ Solar
 - ☐ Wind

- ☐ Biomass
- ☐ Public lands
 - ☐ Access
 - ☐ Motorized Travel
- ☐ Wildlife
 - ☐ Native
 - ☐ Feral
 - ☐ Non native
- ☐ Endangered & threatened species
 - ☐ Listings
 - ☐ Recovery
 - ☐ Habitat designation
 - ☐ Health & safety
- ☐ Habitats
 - ☐ Old growth
 - ☐ Riparian
 - ☐ Desert mesa
 - ☐ Conservation banking
- ☐ Forest products
 - ☐ Sustained yield
 - ☐ Industry support
- ☐ Air
 - ☐ Air quality
 - ☐ Smoke
- ☐ Soil conservation
- ☐ Climate change
 - ☐ Drought
- ☐ Infrastructures
 - ☐ Transportation
 - ☐ Utilities corridors
 - ☐ Cellular
- ☐ Recreation
 - ☐ Consumptive
 - ☐ Non consumptive
- ☐ Special designation areas
- ☐ Historic sites
- ☐ Dark skies
- ☐ County-specific natural resources
- ☐ Others natural resources

☐ Step 3 - Prepare a natural resources management template for each resource

- ☐ Resource class
- ☐ Resource description & location
- ☐ Legal framework

- ☐ Applicable federal statute(s)
- ☐ Applicable federal regulation(s)
- ☐ Applicable executive orders
- ☐ Applicable CEQ guidance(s)
- ☐ Applicable state law(s) & executive orders
- ☐ Partners
 - ☐ Federal partner(s)
 - ☐ State partner(s)
 - ☐ Tribal partner(s)
 - ☐ Local government partner(s)
 - ☐ NRCD partner(s)
 - ☐ University partner(s)
 - ☐ NGO partner(s)
 - ☐ Industry partner(s)
 - ☐ Collaborative group(s)
 - ☐ Public
- ☐ Existing county plans, policy & objectives
 - ☐ Comprehensive Plan (CP)
 - ☐ Land Use Resource Plan (LURP)
 - ☐ Community Wildfire Protection Plans (CWPP)
 - ☐ Economic development plan(s)
 - ☐ Ordinances
 - ☐ Board of Supervisors resolutions
 - ☐ NEPA comments incorporated in plans by reference
 - ☐ Others
- ☐ Inconsistencies reconciliation preparedness
 - ☐ Usable documents
 - ☐ Evaluation of preparedness
 - ☐ Next steps

☐ Step 4 - Develop the county Natural Resources Management Plan

☐ 4a) Develop the county background information

- ☐ History
- ☐ Land ownership
- ☐ Federal land use
- ☐ Travel management and maintenance impact
- ☐ Natural resources use
- ☐ Water needs and uses
- ☐ Soil features and surveys
- ☐ Tax base
- ☐ Economic data (direct and indirect employment, circulating dollars, value added, tax revenue, etc.)
- ☐ Economic sustainability and growth drivers
- ☐ Custom and cultural drivers
- ☐ Census data
- ☐ Socioeconomic data

- ☐ Importance of natural resources in socioeconomic drivers and data
- ☐ Focus on local citizens, local communities, local economy and local environment
- ☐ Expectation of cooperation and coordination by the federal agencies
- ☐ Request for early notification of federal scoping and proposed actions

☐ **4b) Develop a policy for each resource - as appropriate**

- ☐ County policy
 - ☐ States clearly the values and principles that guide the decisions and drive the outcomes
 - ☐ Links specifically the values and principles to the county's socioeconomic drivers
 - ☐ Addresses the macro level analysis
 - ☐ Appropriately succinct
 - ☐ Broad applicability to all foreseeable resource related decisions
 - ☐ Focus on local citizens, local communities, local economy and local environment
 - ☐ Includes supportive socioeconomic data
 - ☐ Includes supportive custom and cultural values
 - ☐ Participation of state and federal partners in development of policy
- ☐ Adoption / incorporation of NRCDC policy
- ☐ Adoption / incorporation of State policy
- ☐ Adoption / incorporation of Federal policy
- ☐ Adoption / incorporation of local government organization policy
- ☐ Adoption / incorporation of collaborative policy
- ☐ Compliance
 - ☐ With federal laws & regulations
 - ☐ With state laws & regulations

☐ **4c) Develop management objectives for each resource - as appropriate**

- ☐ County management objectives
 - ☐ States specifically what the county wants to see happen in relation to the resource
 - ☐ States specifically what the county does not want to see happen in relation to the resource
 - ☐ Translates the policy values and principles into tangible objectives
 - ☐ Links specifically the tangible objectives to the county's socioeconomic drivers
 - ☐ Focus on local citizens, local communities, local economy and local environment
 - ☐ Addresses the mezzo level analysis
 - ☐ Appropriately succinct
 - ☐ Includes supportive socioeconomic data
 - ☐ Includes supportive custom and cultural values
 - ☐ Participation of state and federal partners in development of management objectives
 - ☐ Includes a Strengths/Weaknesses/Threats/Opportunities (SWOT) analysis for the resource
- ☐ Adoption / incorporation of NRCDC management objectives
- ☐ Adoption / incorporation of State management objectives
- ☐ Adoption / incorporation of Federal management objectives
- ☐ Adoption / incorporation of local government organization management objectives
- ☐ Adoption / incorporation of collaborative management objectives
- ☐ Compliance
 - ☐ With federal laws & regulations
 - ☐ With state laws & regulations

☐ **4d) Develop desired future conditions for each resource - as appropriate**

- ☐ County desired future conditions
 - ☐ Describes what the resource should be like after implementation of the management objectives
 - ☐ Qualitative description
 - ☐ Quantitative description
 - ☐ Structural description – as appropriate
 - ☐ Functional description – as appropriate
 - ☐ Links specifically the desired future conditions to the county’s socioeconomic drivers
 - ☐ Focus on local citizens, local communities, local economy and local environment
 - ☐ Addresses the micro level analysis
 - ☐ Appropriately succinct
 - ☐ Includes supportive socioeconomic data
 - ☐ Includes supportive custom and cultural values
 - ☐ Participation of state and federal partners in development of desired future conditions
- ☐ Adoption / incorporation of NRCD desired future conditions
- ☐ Adoption / incorporation of State desired future conditions
- ☐ Adoption / incorporation of Federal desired future conditions
- ☐ Adoption / incorporation of local government organization desired future conditions
- ☐ Adoption / incorporation of collaborative desired future conditions
- ☐ Compliance
 - ☐ With federal laws & regulations
 - ☐ With state laws & regulations

☐ **4e) Develop a management plan for each resource - as appropriate**

- ☐ County management plan
 - ☐ Describes specifically the management actions to take to reach the management objectives
 - ☐ Analyzes resources requirements
 - ☐ Addresses resources allocations
 - ☐ Provides a time table
 - ☐ States responsibility for implementation
 - ☐ Includes monitoring and adaptive management
 - ☐ Includes coordination with NRCD management plan
 - ☐ Includes coordination with State and Federal management plans
 - ☐ Participation of state and federal partners in development of management plan
- ☐ Adoption / incorporation of NRCD management plan
- ☐ Adoption / incorporation of State management plan
- ☐ Adoption / incorporation of Federal management plan
- ☐ Adoption / incorporation of local government organization management plan
- ☐ Adoption / incorporation of collaborative management plan
- ☐ Compliance
 - ☐ With federal laws & regulations
 - ☐ With state laws & regulations

☐ **Step 5 - Adoption process**

☐ **5a) Coordination with other governments and authorities**

- ☐ Submitted for comments to the public
- ☐ Submitted for comments to relevant collaborative groups
- ☐ Submitted for comments to relevant NGOs
- ☐ Submitted for comments to relevant industry groups
- ☐ Submitted for comments to relevant districts
- ☐ Submitted for comments to NRCD
- ☐ Submitted for comments to relevant local government bodies
- ☐ Submitted for comments to relevant local government organizations
- ☐ Submitted for comments to neighboring counties
- ☐ Submitted for comments to state agencies
- ☐ Submitted for comments to federal agencies
- ☐ Compliance
 - ☐ With AZ Open Meeting laws
 - ☐ With AZ Public Records laws
 - ☐ With AZ county Comprehensive Plan adoption laws
 - ☐ With state laws & regulations
 - ☐ With federal laws & regulations

☐ **5b) Clarifications / additions / emerging issues / response to federal actions**

- ☐ Includes prominent statement that the county Board of Supervisor has the authority to clarify and augment the county's natural resources management policies, objectives, desired future conditions and plan by taking official action at any time it deems necessary in response to emerging issues, federal proposed action, or other appropriate circumstances.

☐ **5c) Communication process**

- ☐ Officially communicated to the public
- ☐ Officially communicated to relevant collaborative groups
- ☐ Officially communicated to relevant NGOs
- ☐ Officially communicated to relevant industry groups
- ☐ Officially communicated to relevant districts
- ☐ Officially communicated to NRCD
- ☐ Officially communicated to relevant local government bodies
- ☐ Officially communicated to relevant local government organizations
- ☐ Officially communicated to neighboring counties
- ☐ Officially communicated to state agencies
- ☐ Officially communicated to federal agencies
- ☐ Posted on county website